

Coastal Zone
Information
Center

Stewardship

Modern methods of land preservation
used by "good steward" landowners

U. S. DEPARTMENT OF COMMERCE NOAA
COASTAL SERVICES CENTER
2234 SOUTH HOBSON AVENUE
CHARLESTON, SC 29405-2413

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INFORMATION CENTER

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Modern methods of land preservation
used by "good steward" landowners



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Prepared for concerned landowners in suburban and
rural areas subject to the land consuming
pressures of urbanization



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THIS BOOK IS A REPRINT NOT A REVISION OF THE ORIGINAL TEXT

Ten thousand copies of the original edition of STEWARDSHIP were exhausted several months ago. When we had only a few hundred copies left we decided to do a full scale revision of the book but it became increasingly apparent that continuing demand for STEWARDSHIP made it essential that we go to reprint rather than wait for almost a year for a complete revision.

Therefore, it is important to point out that the appended material concerning CHARITABLE DEDUCTIONS — FEDERAL INCOME TAX is now superseded by the Tax Reform Act of 1969. While many of the provisions of the 1964 Act are still in effect, landowners contemplating gifts of land — in fee or via easement — should have their attorneys and/or tax advisors check their preservation plans against the 1969 Act. Moreover, many new books on environmental protection and land preservation have appeared since the original edition of STEWARDSHIP came off the press. Three that deserve special mention are:

CHALLENGE OF THE LAND by Charles E. Little. A case-history book on land preservation methods written for municipal officials and civic leaders. Its appendix includes a wide range of ordinances, laws and deed forms dealing with open space preservation. \$3.75 each (10 or more copies, \$3.00 each).

OPERATIONS MANUAL FOR A LOCAL LANDOWNER PROGRAM —
An Open Space Institute Staff Report. Detailed procedures including sample forms and letter, concerning organization and operation of a local Landowner Program based on the Institute's own highly successful Stewardship Program. Includes discussion of advantages (especially tax advantages) of preserving open space via donation and allied methods; how to deal with prospective land donors; a glossary of terms and selected bibliography. Single Copy, \$4.00 each, 2-9 Copies, \$3.00 each.

CONSERVATION COMMISSIONS IN MASSACHUSETTS — IDEA ON THE MOVE, by Andrew J. W. Scheffey, Director of Williams College's Center for Environmental Studies, and William J. Duddleson, Director of Policy Studies at the Conservation Foundation. Scheffey analyzes the Massachusetts experience and Duddleson reports on variations of the Massachusetts invention in six other Northeast states and shows that these new kinds of local government agencies tested in more than 500 communities are effective instruments for open land protection and environmental improvement. Available through the Open Space Institute at \$3 per copy.

Finally, it should be noted that there are at least two incorrect addresses in the list of "PRIVATE ORGANIZATIONS INTERESTED IN LAND". The correct address of The Natural Area Council is 145 E. 52nd Street, New York, New York 10022 and that of The Nature Conservancy is Suite 800, 1800 N. Kent Street, Arlington, Virginia 22209.

FOREWORD

Our burgeoning metropolitan areas are now a stage on which a new conservation drama is unfolding.

No matter how urbanized we may become, we recognize the need for a contact with nature as the touchstone that gives meaning to our lives and purpose to our enterprise.

In our cities great and small, it is apparent that we must take action to save woods and streams, meadows and ponds, unviolated seashore and salt marsh, green hills and green vistas. In other years these parcels of wild land where nature holds sway will be irreplaceable human anchors in a surrounding "sea" of man-made objects.

Whether such open spaces as these will be our conservation legacy to future generations is a test of our national values and our civic pride.

The preservation of urban open space admits to no simple solution. A good part of the solution, it is true, must come from an enlarged public purse for the acquisition of recreation and conservation areas, wildlife refuges and natural and civic parks. But no one should for a moment believe that a green and pleasant city is something that can simply be purchased if only funds were available.

The essential ingredient in the preservation of open space must be a heightened sense of stewardship on the part of those of us who use the land and those of us who own the land.

And while for each American this is a responsibility, it is a demanding challenge for those who are the private owners of open land—which taken together constitutes the largest conservation reservoir in and around our cities.

This book is written about these owners and for these owners. They are the stewards of most of our open land: the estate, the farm, the vacant land on which the most arresting feature is the primacy of nature itself.

I commend this book to those of you who believe that every land owner is a trustee for tomorrow. Here you will find creative ways to exercise a vital stewardship.

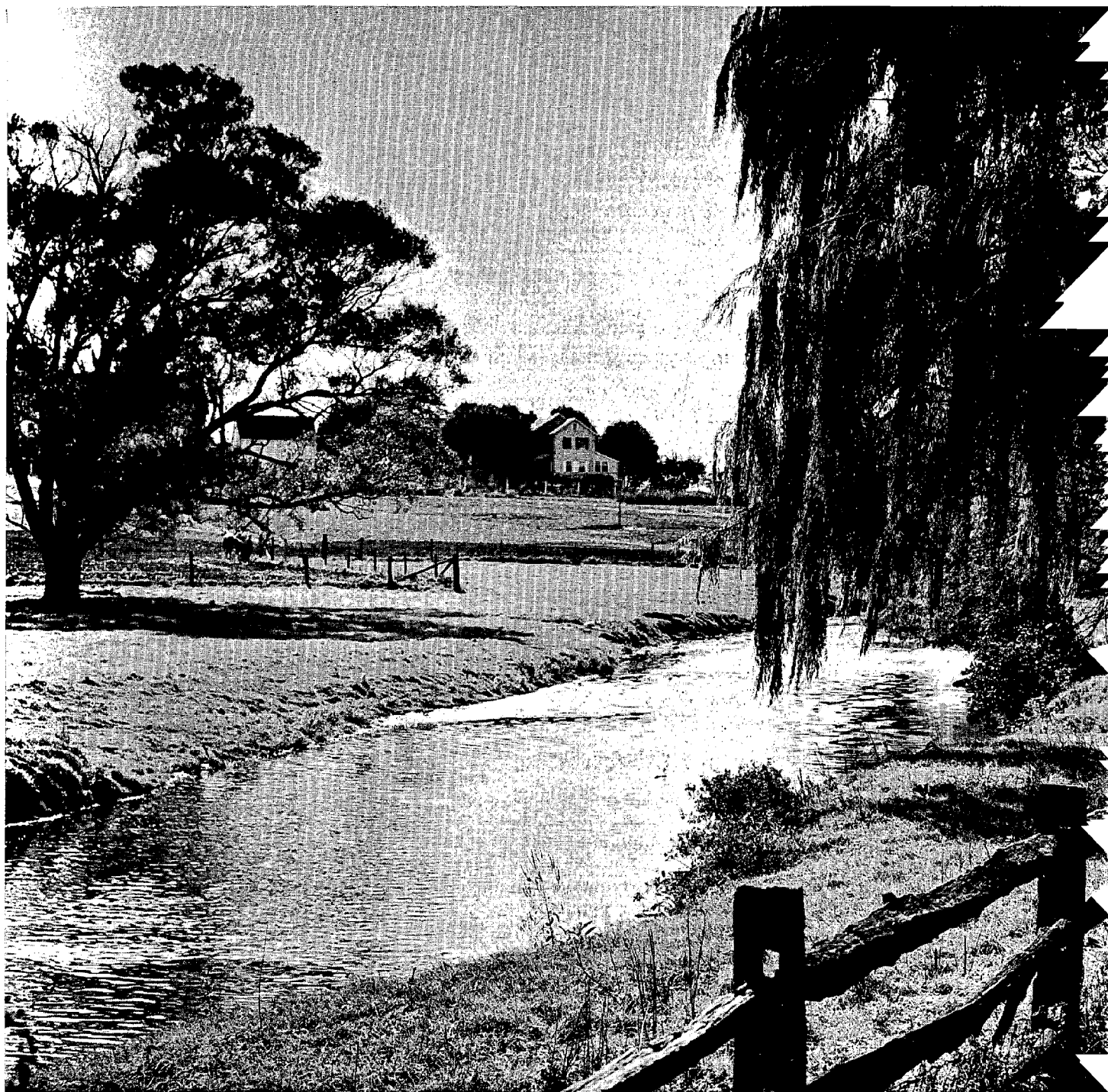
STEWART L. UDALL Secretary
United States
Department of the Interior

*When a piece of work gets done in the world,
who actually does it? Whose eyes and ears do
the perceiving, whose cortex does the thinking,
who has the feelings that motivate, the will
that overcomes obstacles? Certainly not the
social environment; for a group is not an organism,
but only a blind unconscious organization.
Everything that gets done within a society is
done by individuals.*

—ALDOUS HUXLEY

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The opportunity for land stewardship pertains to those who own what is left of the woods, fields and streams in the metropolitan region. Their options for the preservation of the natural landscape can range from rational self-interest to outright philanthropy.

I

STEWARDSHIP:

An Introduction

THE IDEA OF THIS BOOK IS SIMPLE. In the New York Region, there is and will continue to be a severe shortage of permanently preserved open space—the land needed for recreation, the preservation of natural processes, and sheer visual amenity.

While various levels of government can be expected to put more and more money into the acquisition of open space, such funds will continue to fall far short of the mark even as they increase. The public response to the need for open space is almost by definition too late; it is missed only after it is gone. And the cost of land is bound to rise more steeply than the governmental appropriations for its purchase.

But there is a unique opportunity for private action which, if seized, can powerfully augment governmental open space programs, and just might make it possible for this generation to pass along to its children a region approaching what we would like it to be.

This opportunity could be called “Stewardship.” It is an opportunity available to a very small fraction of our metropolitan population—probably no more than 10,000 individuals, .06%.

These are the private owners of what is left of the open land in this region, land which comprises most of the remaining woods, fields, streams, lakes, seashore and salt marsh. In twenty-five years, the use patterns of this open land will have been set. The look of the region depends on the decisions its owners make today.

“Stewardship” may seem an abstract concept, but there are many means for its concrete expression. An owner who is philanthropically inclined might donate land for open space use to a park authority or a conservation organization. A person who wishes to sell his land might participate in the design of a subdivision to assure that some valuable open space remains. The estate owner who would like to continue to live on his property just as it is or bequeath it intact to his heirs, might convey an “open space easement” to preserve the open character of his land, remove the pressure for development, and stabilize his taxes at a level he can afford.

Although the exercise of stewardship may bring ancillary rewards, the real purpose here is to show that landowners, as a group, have a capability to affect the appearance and liveability of the region that simply cannot be matched by the public purse no matter what its size. It is to this capability that this book appeals.

Only one assumption is made: that most of the owners of open land in this region already have a sense of stewardship. One might think it necessary to except from this the land speculator to whom a quick profit may be most important, but even among speculators, both professional and amateur, there are many with vision who would like to see the land used properly as well as profitably.

The ensuing pages, then, rely on a pre-existing sensitivity toward



The public response to the loss of open space is usually too late. Private act.

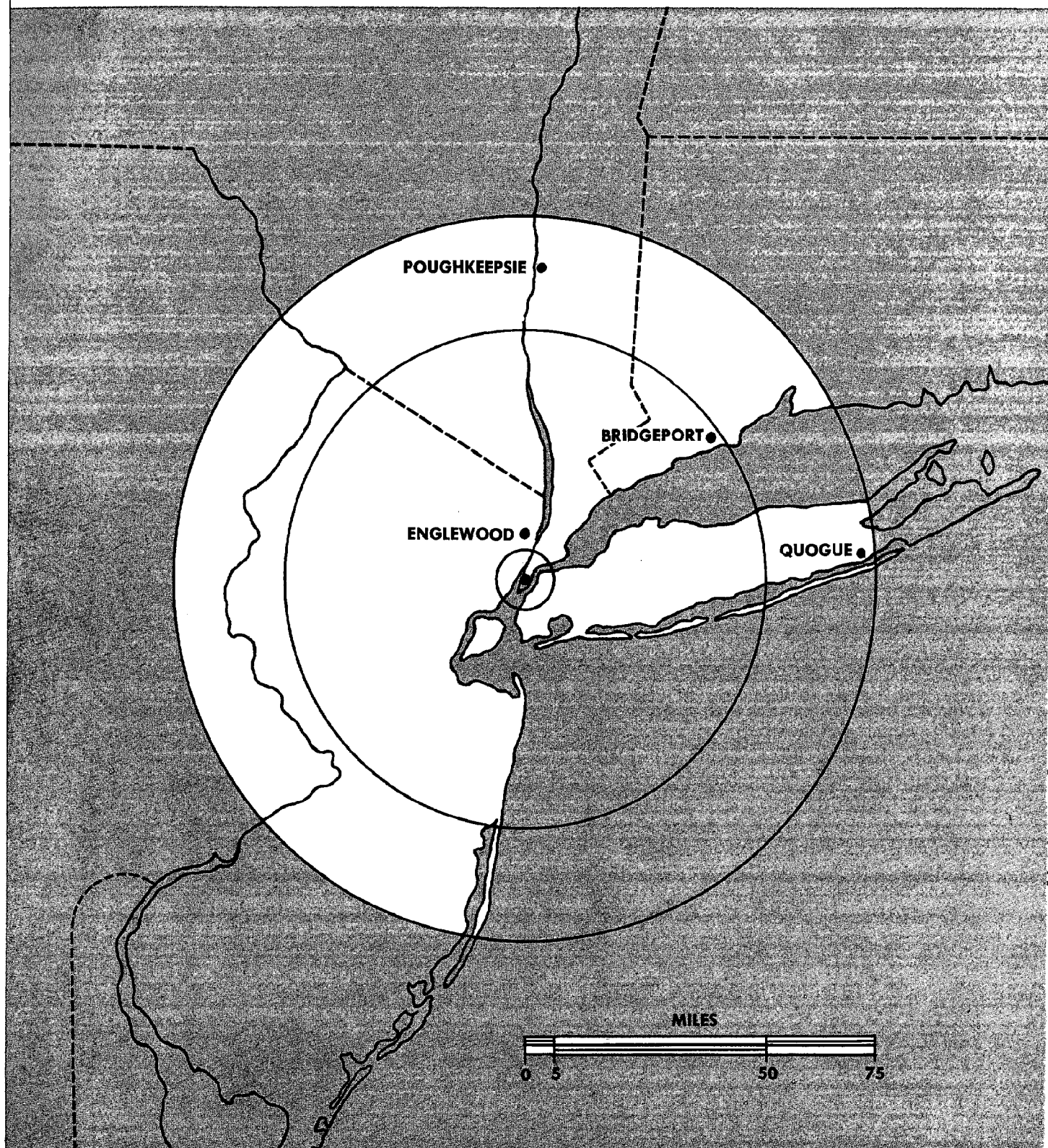
the land. They presume to be specific about the mechanics of stewardship.

Beginning with an outline of the nature of the open space problem (Chapter II), the book then illustrates by example how precedents for stewardship decisions have been set (Chapter III), and concludes with brief summaries describing how land may be donated (Chapter IV), developed (Chapter V) or lived on (Chapter VI) by owners who serve their own interests and the public good by making a decision for stewardship.

Hopefully, this volume will help to make such decisions commonplace and in the making, produce a region worthy of our aspirations as a civilized people.



of stewardship are needed to insure a livable region for coming generations.



II

METRO NEW YORK

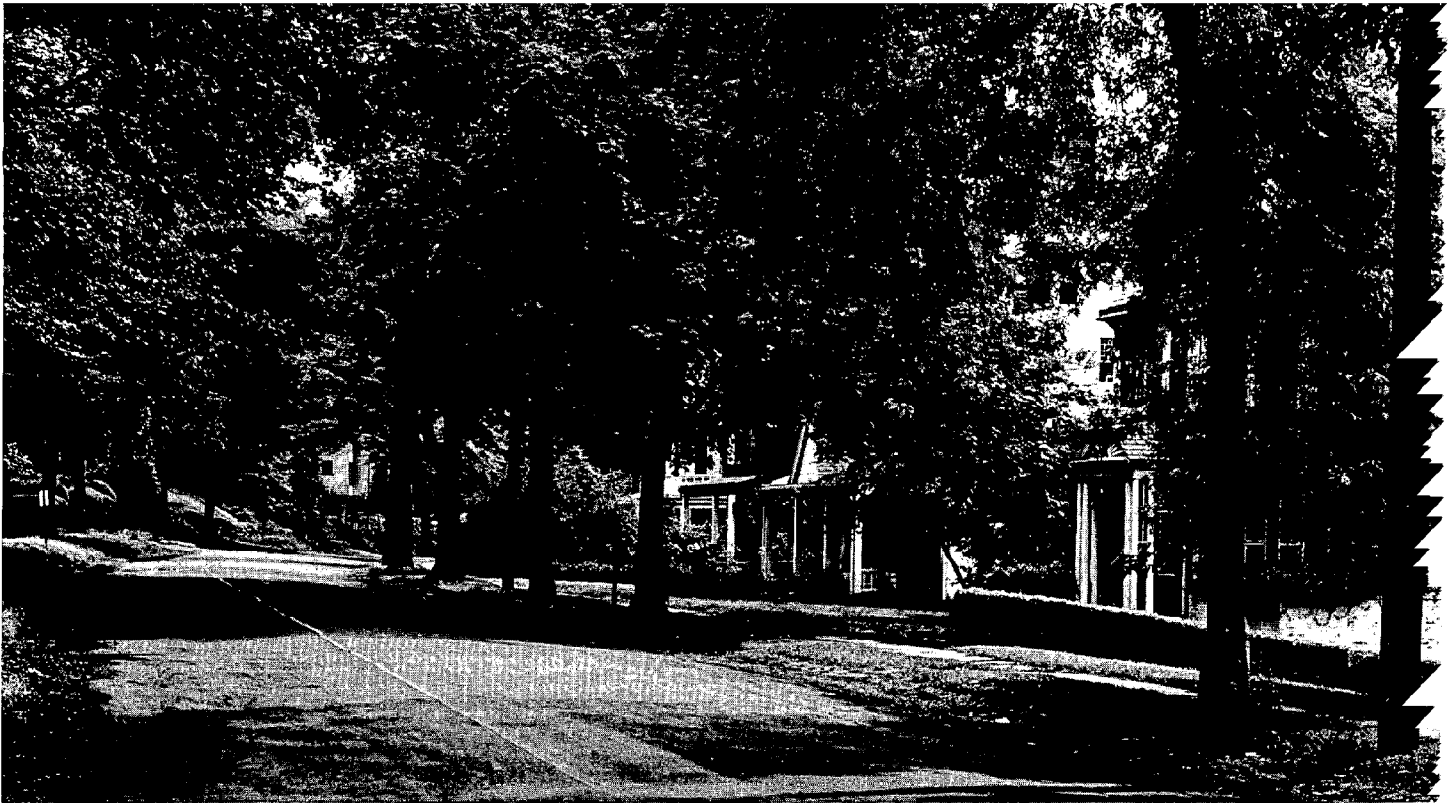
The Quality Of A Region

THIS IS A BIG REGION. Its 22 counties and 17 million people reach up the Hudson to Poughkeepsie, sprawl along the Connecticut shore beyond Bridgeport, pierce the Atlantic on Long Island, spread across nearly half the State of New Jersey.

And yet, the region cannot be found in statistical tables, nor perceived in a map. Its essential quality is basically subjective. For the commuter, it's a backyard in the suburbs and a commercial eyrie in the city connected only by a railroad ride or a ribbon of crowded concrete. For the elite, it is holing up for the winter in a park-view cooperative apartment, fleeing to the country in the summer. There are others for whom the region is only four blocks square in a Manhattan neighborhood, or four miles square in a suburban town whose link to the city proper seems only theoretical.

But the region is still there. It might be valuable to take a good, hard look at it. Take a look at it along the *old* roads. Here, the forces of a surging population, a flight to the suburbs, a policy by default of land squandering and unrestricted profiteering, a lack of architectural taste, an insolent disregard for natural features, amenity, safety, human health and welfare... here they all converge into a mindless pollution of the human environment.

But this is not the whole story. There are breaks here and there, even vast acreages unfouled by the dynamics of unplanned growth. There are residential areas—not always the most expensive ones—which are pleasant to drive or walk through. Side by side with the blight, the majestic Hudson Highlands co-exist. There is an Englewood, New Jersey—green and pleasant—to balance the parched, massive post-war subdivisions of Long Island. There is a wild salt marsh at Quogue offsetting seaside shanties, chromium diners and beflagged gas stations. There is still a place fifty minutes from Grand Central where you can catch a native brook trout and manage to get lost in the woods.



The quality of the region is variable but redeemable. A pleasant suburban street offsets uncontrolled highway mess. The land itself is neutral. Human choices make the difference.



THE VALUE OF "OPEN SPACE"

The Hudson Highlands, Englewood, Quogue and places like them constitute the redeeming features of this region's landscape. It is these we would like to remember and hope to be remembered by. We like better those places where nature is given a chance—we despise those places where the natural landscape has been extinguished. A break in the phalanx of development—a streamside preserved—is better than solid housing, streets and culverts.

A need to preserve open space in our urban region can be justified for reasons of taste and aesthetics or perhaps even reasons that transcend cultural considerations and emerge as a kind of ethical proposition. Do we deny "nature in metropolis" to future generations, or do we pass it along as part of the legacy we bequeath?

Still, there remain concrete and urgent justifications for preservation. Open space gives us a place to recreate—both in the active sense of sports and games as well as the passive pursuits such as hiking, observing nature, or just finding a quiet place. Open space provides the basic environment necessary for the proper development of children. It helps instill in them a responsiveness and respect for nature that comes only through an intimate contact with it. Open space gives, free of charge, a place for water to purify and to be stored for our use. It provides, in the form of forests and marshes, swamps and other wet places a method of flood control more efficient and less expensive than any yet devised by man. Open space, whether a park, a nature sanctuary, a scout reservation or a buffer strip, adds to the value of private properties that touch its perimeters and increases the net value of an entire community as well.

Thus we can defend the preservation of open space as a physical resource in our region not only for aesthetic and ethical reasons but also for hard-headed economic and social reasons.

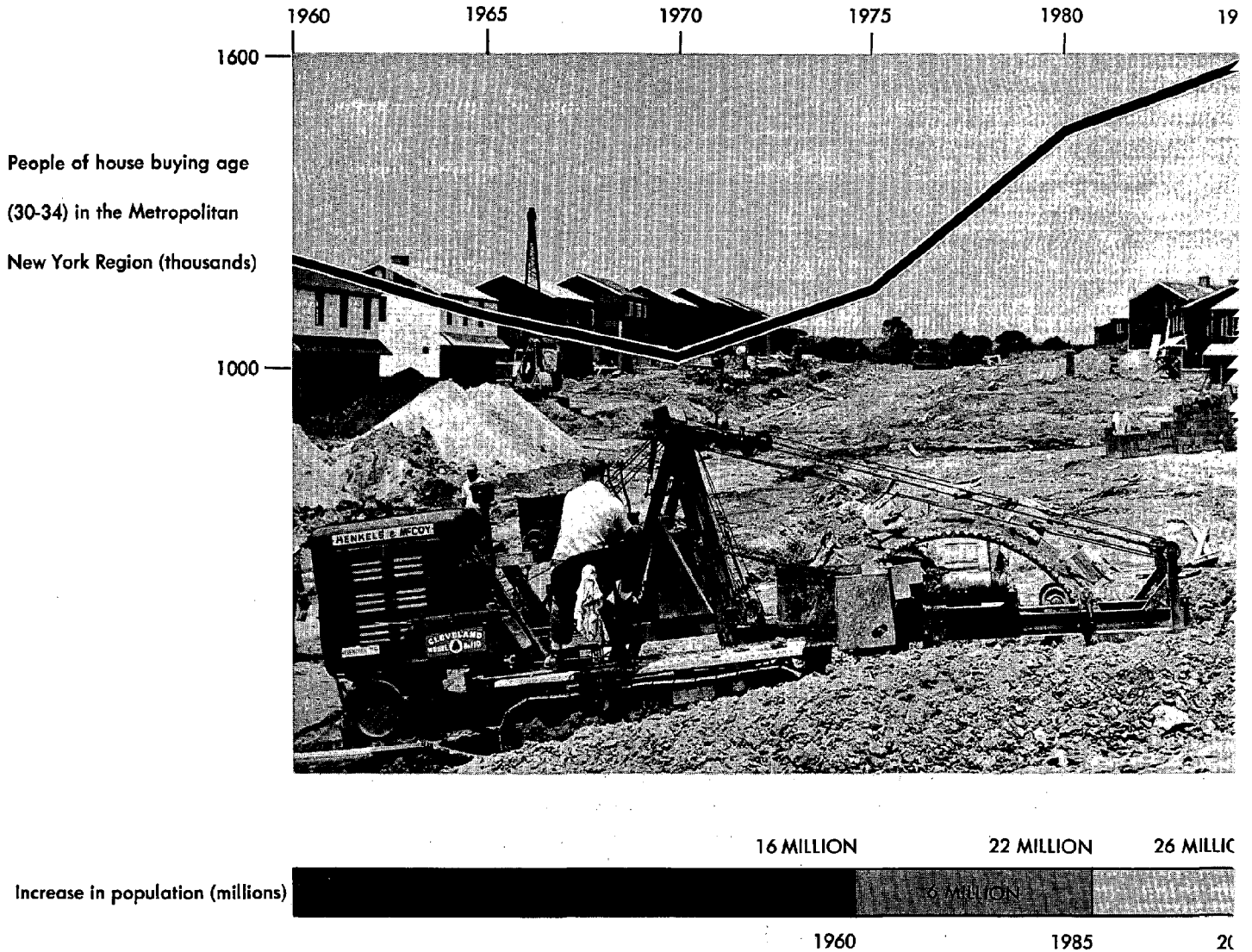
THE PROBLEM

Unfortunately, there are forces at work that would deprive us of this precious urban resource. Singly, these forces are mostly innocuous; all are part of the urban traditions and urban economics. But in combination, they are dangerous and wholly destructive of open space.

It begins with population and the land that this population will require. In less than a generation the New York City Region will increase by some six million people according to the Regional Plan Association. Before the century is out we will have grown by *ten million*.

All of this increase will probably settle in the suburbs. The core of New York City has had a stable population since 1920.

Statisticians at Regional Plan estimate that, if present trends continue, we will use up more additional land in the next twenty-five years



The problem begins with population, particularly now as the post-war babies will soon reach house buying age. It proceeds to the massive destruction of the landscape even in distant suburbs. It comes to rest in the poignant plea of a child—such as the letter from 7 year old Scott Turner to President Kennedy in 1962.

Dear Mr. President
we Have no Place
to go when we
want to go out
in the canyon
Because there
are going to Build
houses So could you
Set aside some
land where we ^{could}
Play? thank you four times
love SCOTT

for urban purposes than all the land now occupied. The region's urbanized area presently amounts to about 2,400 square miles. Before another generation comes along, an additional 2,900 square miles will be urbanized. Try to visualize a city 100 miles across, an interminable web of suburbia.

Yes, the flight to the suburbs is quite real, but not just because suburban life has some sociological mystique for the young family. It so happens that the suburbs can provide physical safety, a good education, amenity, and raw square feet of living space at, apparently, bargain prices. And the motor car and modern roads have, in hardly more than a generation, opened up a wider range of suburbia than railroads ever could.

Making the problem even worse, home construction dynamics favor land-wasteful single family housing if only because 95% of the vacant land is zoned that way. But it's profitable too, the easiest to finance and the easiest to sell. On a square foot basis, there's no better buy than a development house in the suburbs, and only a token cash investment is required. Yet, it is as inefficient a use of land for mass housing as the automobile is for mass transportation. The experts now realize the full tragedy of that frail defense against development called one acre zoning, as thousands upon thousands of acres go under the bulldozer's blade to serve fewer people than urban land has ever served before.

Meanwhile, as the metropolitan countryside fills up with houses, the people in them soon realize that the services they require cannot be borne by themselves alone. Often it takes a thousand dollars or more of locally raised tax money to educate a single child for a single year at a suburban school. Schoolmen have a rule of thumb that a new development will average out to at least two school-age children per house. Obviously, most of the money for education and other municipal services has to come from some other source.

The residents rightly enough call for new industry to share the load. The situation can become so desperate that citizens will often gladly choose an intrusion of unplanned industrial or commercial ugliness to the possibility of being taxed out of their homes. The cycle seems endless, because as factories and facilities reach into the suburbia, so new housing developments emerge as their necessary complement, restoring the tax imbalance that started the frenzy in the first place, and reducing the landscape to a shambles in the process.

THE SEARCH FOR SOLUTIONS

SOMETHING HAS TO GIVE. But those who deal with such problems realize that there is no swift and easy answer for building a decent urban environment. There is no single statute that can do it, no easy way to

change ingrained attitudes, no public purse large enough to solve the problem in one grand thrust.

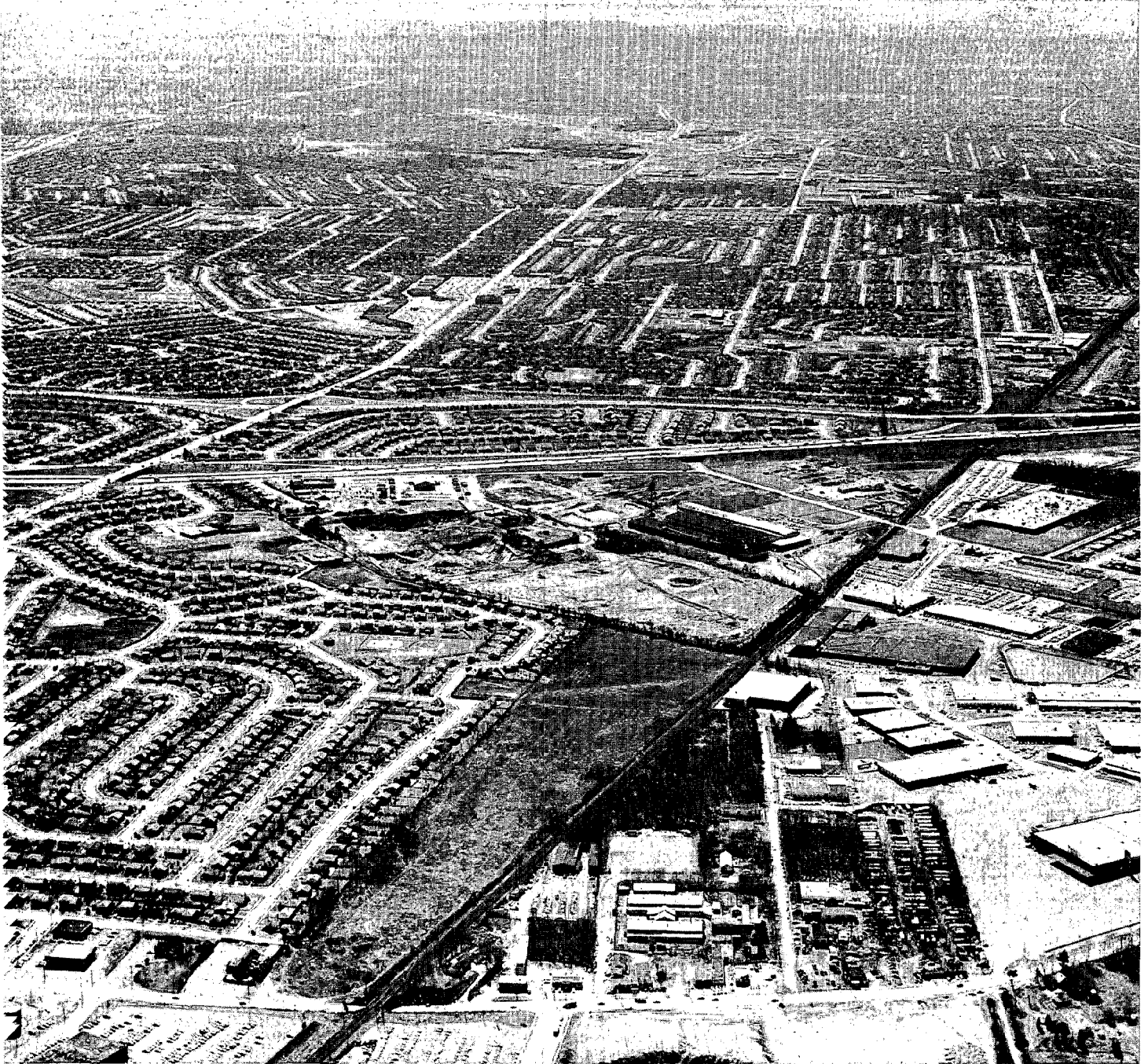
We are going to have to solve this problem in bits and pieces. The question is, can we achieve enough of the bits and pieces *in time*, so that



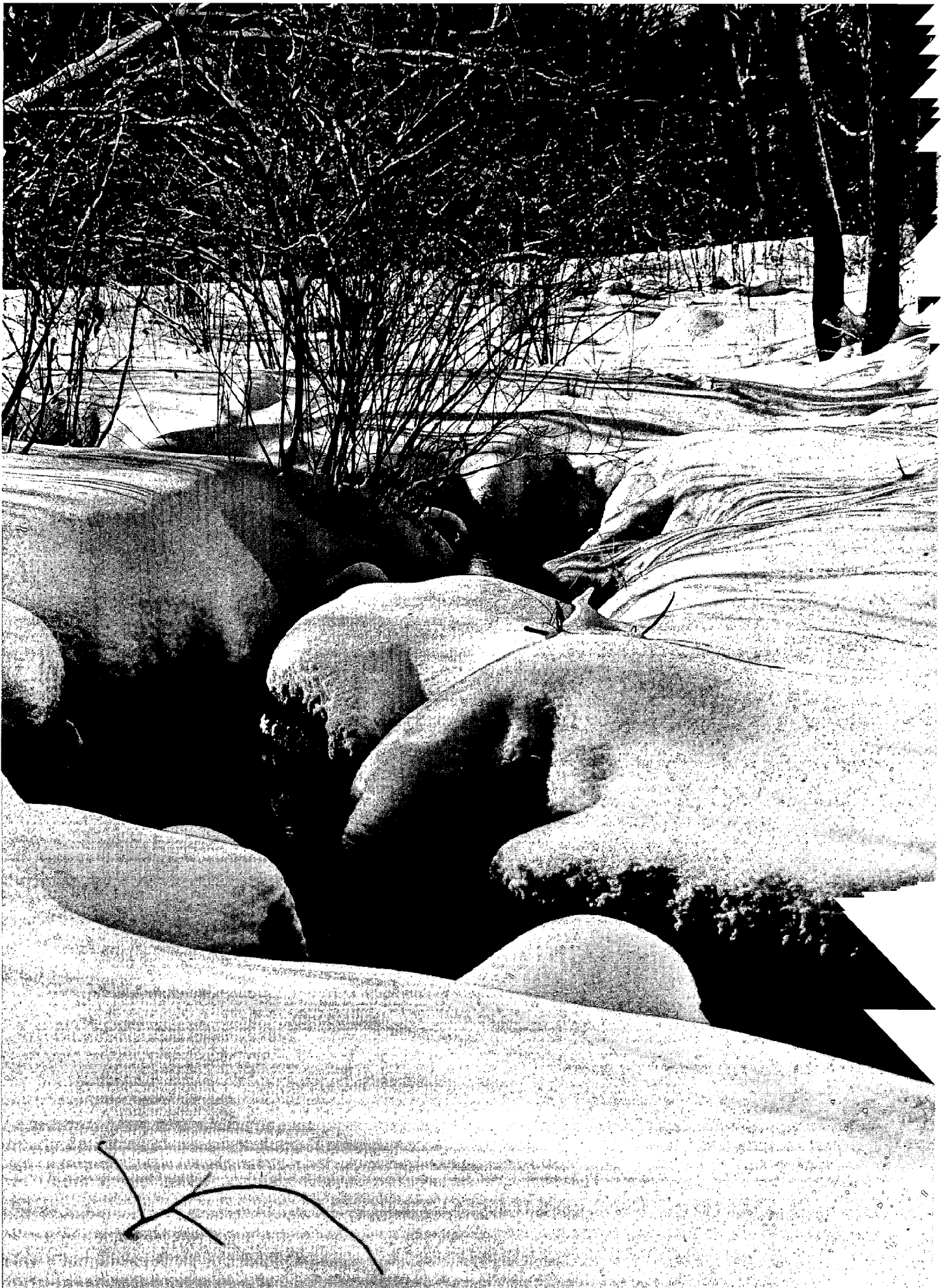
The result of continuing uncontrolled growth is wholly predictable.

at least some vestige of quality in our urban land-use pattern can be provided.

A concern over wholesale landscape destruction is beginning to show up in state and federal legislation. Among federal accomplishments



as these before and after aerial photos show. Syosset, 1949 and 1965.



are the Land and Water Conservation Fund, the open space grants of the Urban Renewal Administration, plus specific acquisitions such as Fire Island and Tocks Island. New York State passed a \$75,000,000 open space bond issue in 1960 and in 1962 added \$25,000,000 to it. New Jersey voted \$60,000,000 for its Green Acres Program. Connecticut sets aside several millions yearly for grants to municipalities for open space acquisitions. But, withal, such exciting developments will not in themselves regain a paradise, even if the metropolitan region got a share of the funds proportionate to its population, which it doesn't.

The financial mathematics are grim. Planners estimate that ideally 25% of the land in a given community should be in protected open space uses. At the current rate of urbanization in the New York Region—some 2,000 acres per *week*—we will need then, at a minimum, some half million acres set aside in the next 20 years just to keep pace with new development. The cost, using a \$1,000 an acre price as a nearly absurdly conservative average would be \$500,000,000, and this doesn't count the cost of bringing older communities up to standard. The Regional Plan Association suggests that altogether \$1,900,000,000 is needed for open space in the metropolitan area.

There may come a time when such funds will be available from local, state, and federal government sources. But the safest guess is that it won't be soon enough to insure the environmental quality we would want for future generations who seem fated to an urban life even more complex, unrelieved and grinding than our own.

Most observers believe that if the open space problem is to be solved, it will polarize on individual initiative at the local level. State and federal grants are a powerful impetus to public action, of course, but much of the origin of action must depend in large measure on the initiative of those who see the problem clearly and are in a position to do something concrete about it. Those who, in short, are *able* to act on the open space problem: those who, in fact, *own* the open space land.

How many such people are there? And what will they do? The quality of a region depends on the answers to these questions.

The preservation of open space in sufficient quantity, quality, and diversity is an answer that should require no defense, demand no precondition for action. Nature maintained within the metropolis—from core to outer fringe—can mitigate past mistakes and help prevent future ones by channeling development, preserving natural processes and providing recreation and amenity.



III

THE STEWARDS

A Casebook

THIS IS A CHAPTER ABOUT INITIATIVE, altruism, enlightened self-interest and persistence. It is about the stewards: landowners who feel so keen a responsibility and affection towards land in their charge that they exercise their option to act in its behalf. The future is their focus, the land itself their object. Though the landowners themselves may benefit from the attention they give the land, all society inherits their enhanced estate.

There is an antique quality about the word stewardship, suggesting an ancient wisdom calling for the careful husbandry of ancestral acreage. The alternative was the barren field. Today, in a mechanistic, crowded, urban age, the concept of stewardship has become broader, more comprehensive; no longer concerned primarily with agricultural land, it embraces the entire landscape. Aware how modern technology fueled by population pressures can so readily obliterate naturalness, today's steward is more apt to be concerned with preserving the quality of the environment.

Indeed, stewardship must now involve a more profound land ethic than ever before; one which recognizes that land of itself, particularly land in an open or natural condition, is important, even essential, to preserve natural processes, provide opportunity for recreation and maintain surroundings worth looking at and living in.

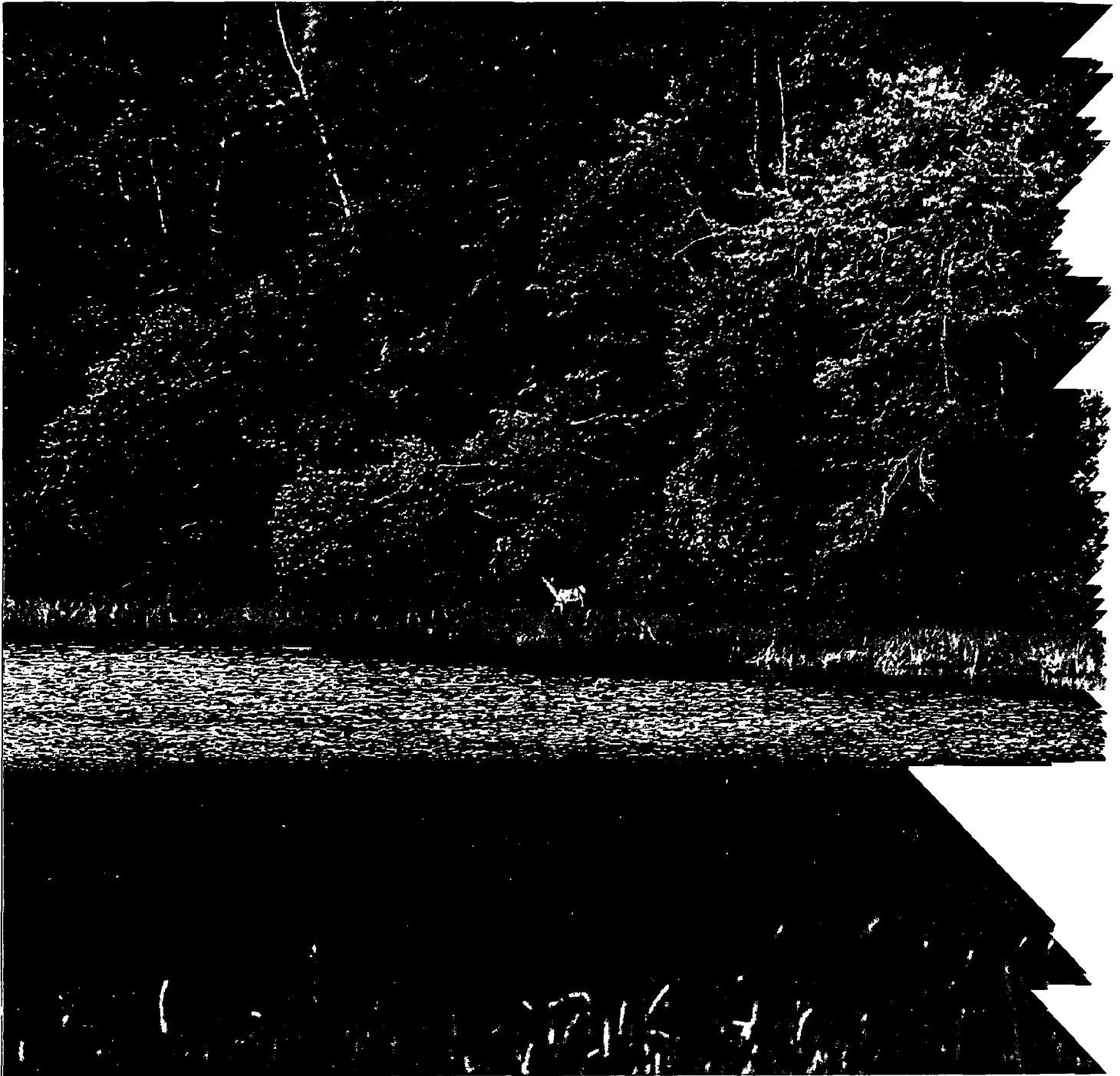
What follows is a casebook of decisions made in the recent past by landowners in the New York Metropolitan Region. It demonstrates how the modern concept of stewardship can find expression in a number of imaginative ways, ranging from outright philanthropy to wise exploitation.

BRINTON BROOK. A Hilltop Heritage

They found it in 1925. Mrs. Willard Cope Brinton claims that it is the best hilltop on the east bank of the Lower Hudson. Few would argue.

Following their initial purchase, Mr. and Mrs. Brinton assembled adjacent parcels into what became a 150-acre tract. Over the next three decades they explored their own land.

Perhaps some would see the property as an abandoned farm with untrimmed apple trees, fields reverting to spindly second growth and a complex profusion of stone fences. But there was more to find if one would only look.



Deer browsing at midday testifies to tranquility in the midst of suburbia. Mrs. Brinton donated this property to the National Audubon Society over a period of eight years. By conveying a fractional undivided interest each year she spread income tax deduction benefits.

"We were interested in the variety of trees growing there," reports Mrs. Brinton. "Seven varieties of oak alone. The rock formations show clearly the glacial action which had carved these hills and offered specimens of every kind of rock to be found in this part of New York. And all the creatures native to this part of the Hudson River have lived or visited here—including otter at the pond and bobcat on two occasions that we know of.

"There were some very large bass taken from the pond in the early days. The largest we know about weighed 8 pounds and measured 32½ inches in length..."

Mrs. Brinton's reminiscences are today all the more valuable, for in 1957 she opened over 100 acres of her land to the public to enjoy as she and her husband did for so many years.

As she puts it herself: "People had approached us over the years about building. But the more we found of the rich natural endowments of our property, the more strongly we felt that it should be kept intact as a natural museum of the region. We talked about it for a long time. When my husband died suddenly in 1957, I took action." She decided that the National Audubon Society would be the best custodian.

Since then thousands of visitors have come to Brinton Brook Sanctuary including school science classes, groups of Scouts and other youth organizations. Mrs. Brinton, who lives on an adjacent parcel, need hardly be aware of their presence. However, she says, "I've made so many good friends because of this."

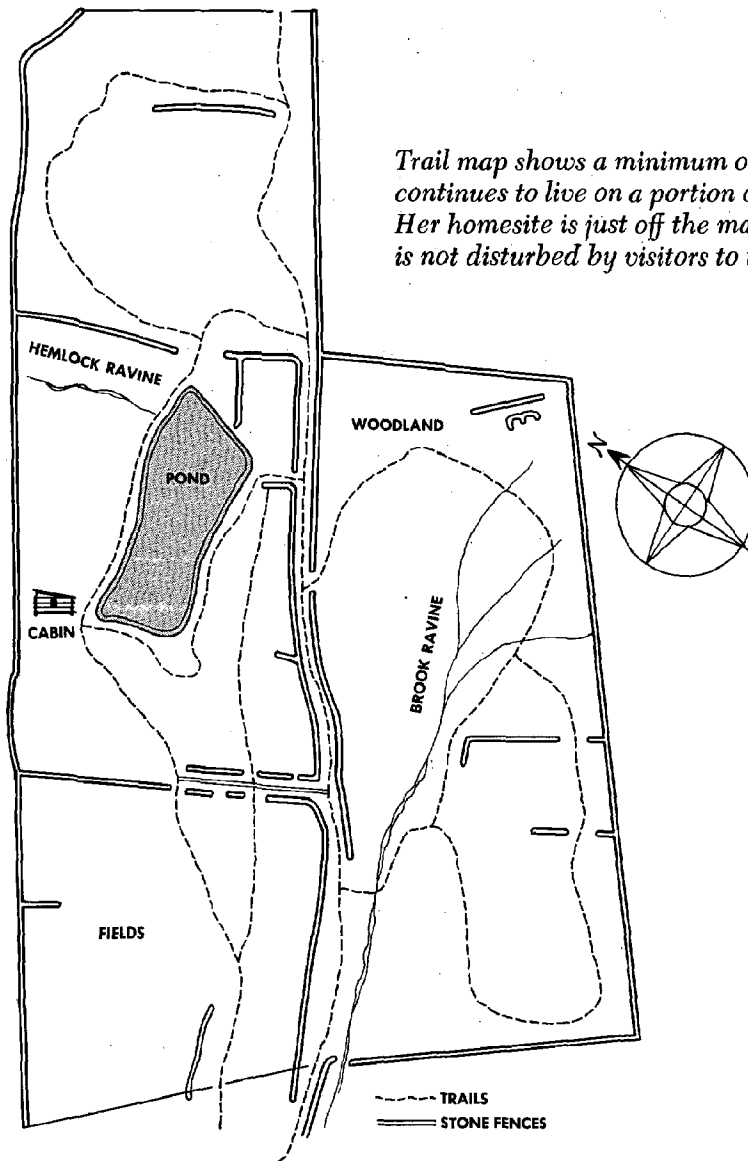
In order to enjoy maximum tax benefits from her gift, Mrs. Brinton initially set up a schedule which called for the donation of a one-tenth undivided interest in the land every year. In 1964 when the Internal Revenue Code was revised, Mrs. Brinton (with three years to go on the schedule) was able to convey the remaining interest all at once. This was made possible by the new ruling which increases the allowable amount of charitable donations to organizations such as Audubon from 20 to 30% of adjusted gross income. Further, the ruling allows that any excess over 30% can be averaged over a period of up to five years. Previously such excess in any one year would be lost as a deductible item.

During the period of giving, Mrs. Brinton protected her intentions by providing through her will that any interest still held by her at her death would be devised to Audubon. There is no limit on deductibility from a taxable estate of bequests to a qualified charity. The same applies to the Federal gift tax.

Now that all the land is owned by Audubon, Mrs. Brinton is relieved of property taxes on the parcel she donated. She might have requested that taxes be reduced as her interest was reduced. However, she elected to pay full local taxes and take this as an income tax deduction.

Brinton Brook is managed by a branch of National Audubon, the Saw Mill River Audubon Society, on a budget of around \$800 per year, plus a good deal of volunteer labor on the part of Saw Mill members. No caretaker seems needed. For the only professional service required, a fee is paid to the district fish and game warden to patrol the area during the hunting season.

Near the pond is a little cabin which contains an exhibit of birds' nests, lists of fauna and flora to be found in the sanctuary and other appropriate literature. "We used to keep the shack locked," says William G. Fennell, past president of Saw Mill, "and occasionally kids would break in and mess the place up a little. Then we gave up locking it and have had no trouble since! Everybody now takes a proprietary interest in the place."



Trail map shows a minimum of development. Mrs. Brinton continues to live on a portion of the original tract. Her homesite is just off the map to the west. She is not disturbed by visitors to the sanctuary.



The woods at Village Green remain as a natural area for hikes, bird walks and wildflower hunts. The maintenance cost is zero, the value beyond price.

VILLAGE GREEN The Dream Merchants

The firm of Halpern and Tuschak, Somerville, New Jersey, has been in the dream fulfillment business for the past 15 years. Business has been good. Its clients number in the hundreds, able and willing to invest something between \$20,000 and \$40,000 to make the dream materialize.

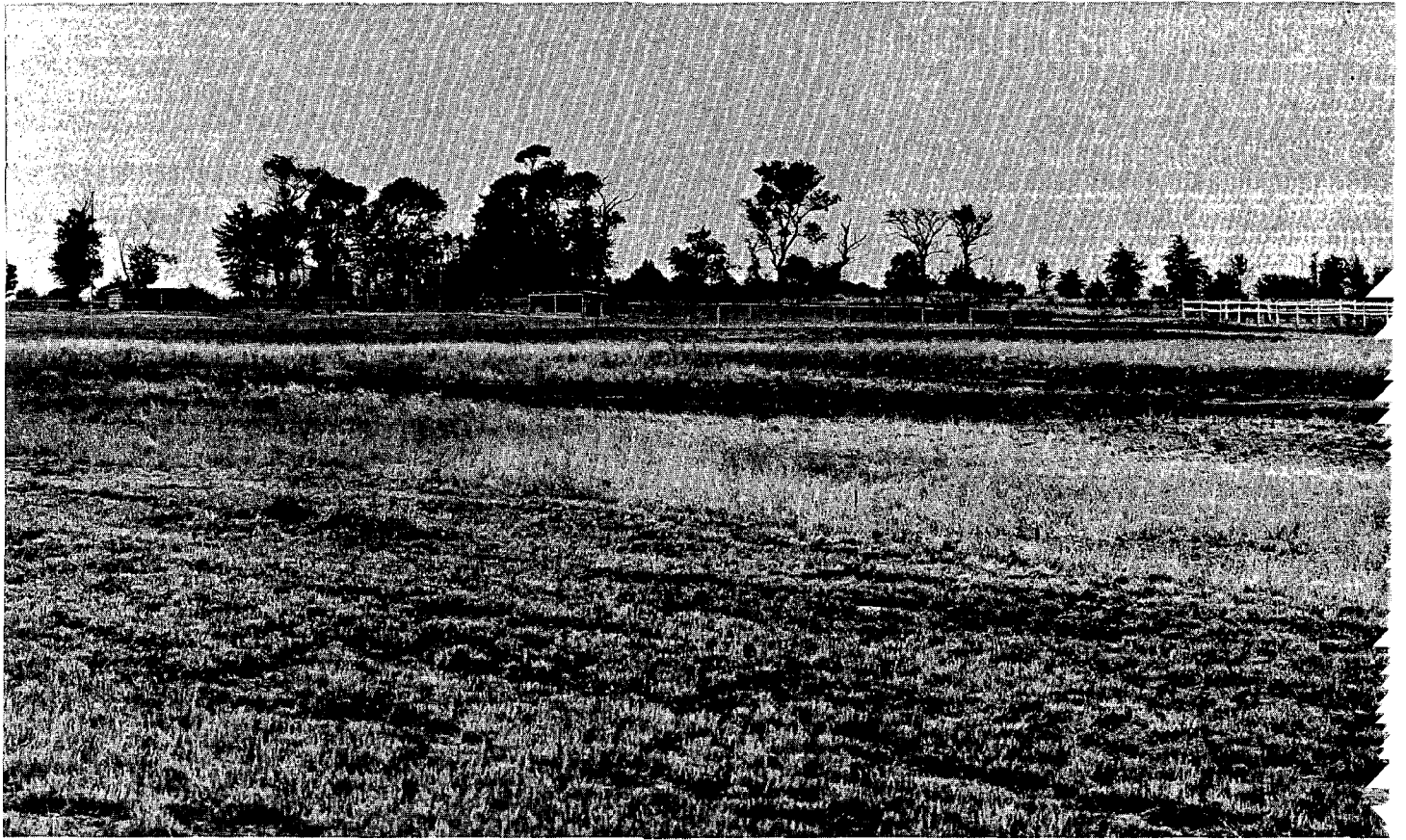
The dream: to own a house and plot of ground in the country.

Halpern and Tuschak are developers. They have noted a market need and have filled a segment of it in Somerset County. They have helped fill the demand for housing created by the movement of two and one half million people into New York's suburbs in the single decade 1950-1960, a demand that is increasing in the 1960s.

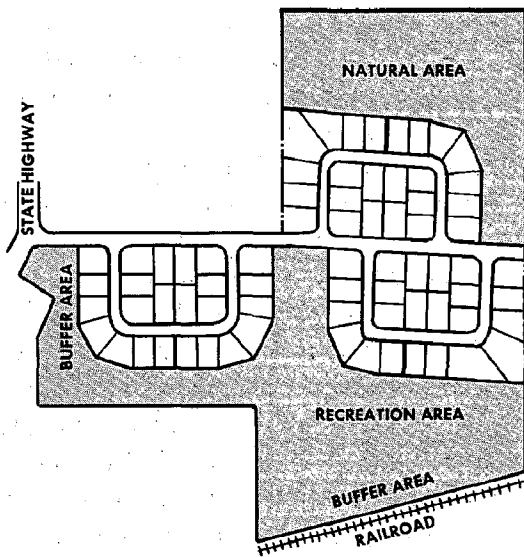
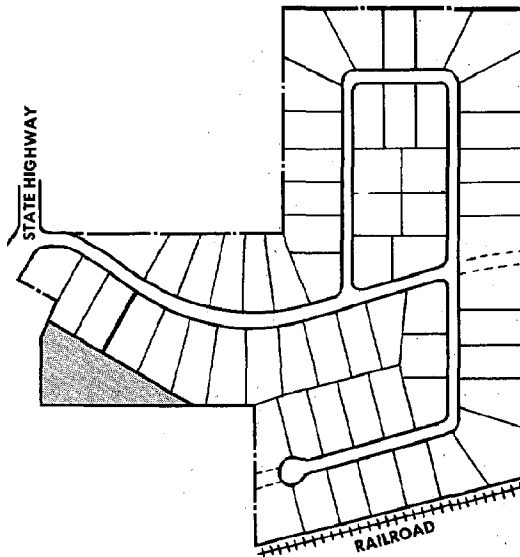
Critics believe the dream has often turned into a living nightmare; the dream house has too frequently become part of a monotonous splatter of development that has eliminated privacy and obliterated nature.

Like many other builders and developers, Sidney Halpern tends to agree with the critics, but claims they miss the point. How can the dream house be other than prosaic and unimaginative when the rules of development are prosaic and unimaginative?

Zoning regulations usually demand a single family house on a lot.



Village Green's recreation area. It's a bigger backyard than most small lot owners ever dreamed of. Small buildings in the background are dugouts for Little League games.



Conventional subdivision layout is shown on left in contrast to cluster plan actually used at Village Green which preserves 40 acres of open space.

This has been supported by lending institutions and by Federal housing and finance policies. Escalating suburban land values usually permit only intensive development of a site. What choice is there except to create row-house subdivisions, or a sea of roofs at best a hundred feet apart?

There are alternatives, of course, but they have found little application in metropolitan New York. One that intrigued Sidney Halpern is the concept known as clustering. The idea is to create a more attractive subdivision by reducing the size of individual lots, grouping the houses, and keeping belts and pockets of open land for its natural quality and for recreation.

Halpern was introduced to the cluster concept by Somerset County Planning Director William Roach. It was after Halpern and Tuschak had purchased a 75 acre parcel of land in Hillsborough, and had prepared a conventional plat for approval by the planning board. Roach suggested the advantages of clustering: a more congenial environment for the homeowner; lower construction costs for site and houses for the developer; less costs to the community for snow-plowing and servicing the roads and for fire protection; and, in this case, public water and sewerage connections instead of private wells and septic tanks which had already begun to create a health problem in the community. This last advantage was the key that persuaded the council and planning board of Hillsborough to give clustering a try, and a required "density zoning ordinance" was passed.

Under standard zoning regulations, the 75 acres would support 72 houses. Density zoning allowed Halpern to arrange the same number of homes in three clusters of 24 houses each on half-acre lots. The remaining 40 acres of the parcel were donated to the town for park and recreation purposes.

The project was named Village Green, and the fact that there was public green space just a few feet from every doorstep proved to be an almost overwhelming sales attraction. Somewhat to Halpern's surprise, and to the town officials' consternation, the houses sold almost as fast as they could be constructed. This quick turnover of capital was wonderful for Halpern and his associates, but it scared Hillsborough. With visions of dozens of cluster developments springing up and an avalanche of school children descending on their limited school facilities, Hillsborough rescinded the "density zoning ordinance."

That was in 1961. In 1965, the ordinance was reinstated. Development, in any case, was inevitable, and clustering an obvious improvement over the conventional subdivision layout. For proof of the pudding, it might be noted that among the satisfied dwellers of Village Green are planner William Roach, and Sidney Halpern's mother-in-law!

SHARPE RESERVATION A Total Concept of Conservation

In his autobiography, *Brain Surgeon*, Dr. William Sharpe wrote, "Undoubtedly, our physical characteristics are the result chiefly of inheritance, but I am sure that our general behavior is more the result of environment and the constant conditioning we are subjected to from the very beginning of childhood."

For Dr. Sharpe, this was not a casual theory, but the basis for a total commitment which manifested itself not only professionally but throughout the entire range of his life. One of the first to break through the ugly crust of medical and popular ignorance encasing the victims of cerebral palsy, he developed new surgical techniques for treatment of children. With his wife he helped dispel the brutal "bad seed" belief that had for so long inhibited medical progress and a lay understanding of this affliction, so particularly hurtful to the underprivileged child of the city slum.

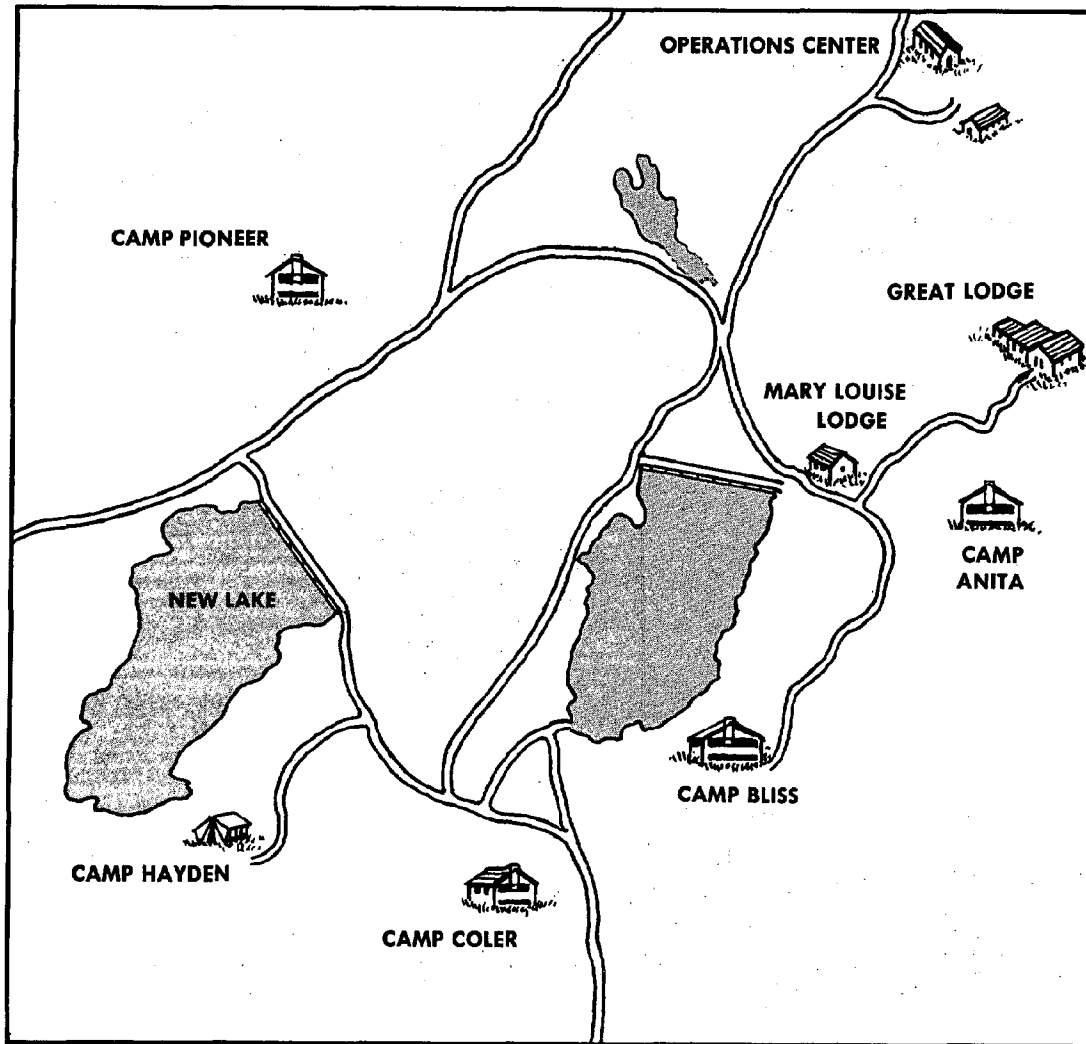
These specific medical achievements were matched by a broader, human commitment toward children, deeply felt. All underprivileged youngsters, no less than the rest of us, and surely more so, need a periodic contact with nature intimate enough to provide some release from the crushing depression of the slum.

Though Dr. Sharpe might not have classified himself as a conservationist, it was a kind of total concept of conservation that led him to donate his thousand-acre retreat in Fishkill, New York to the Herald Tribune Fresh Air Fund, an organization which for nearly a century has provided almost a million underprivileged children of New York City the benefit of two weeks in the country.

Dr. Sharpe died in 1960, but not before he saw the development of Sharpe Reservation and saw it grow from his initial donation in 1949 of the thousand acres to nearly three thousand acres as it is today.

The essential meaning of two weeks in the country for an underprivileged child was personally understood by Dr. Sharpe and his wife: "What a thrill it would have been to Mrs. Sharpe as a youngster," he wrote, "when her only knowledge of grass and trees came from the weekly visit to Central Park! . . . Although I myself did get away from the city streets at times during the summer months, how well I remember my boyhood pals in Philadelphia just hanging around street corners and railroad tracks, with nowhere to go!"

A feeling for open land and a need to escape from time to time the exhaustive burdens of his profession caused Dr. Sharpe in 1933 to buy the tract in Fishkill—just fifty miles from the city—as a place for retreat and renewal. The cost was small for such an acreage, but its value so great that the thought of reaping a profit for a man so successful as Dr. Sharpe perhaps never even came to mind. That the land should be put



Dr. Sharpe's original philanthropy inspired others to contribute funds for the expansion and development of the reservation. Map shows the major facilities.

to its best use, a use consonant with his beliefs and with the land itself—was paramount.

The Herald Tribune Fresh Air Fund saw the donation, according to its executive director, Frederick H. Lewis, as “an opportunity that comes to few non-governmental camping organizations interested in creating a new recreational area.” Mr. Lewis pointed out further that the Fresh Air Fund “accepted Dr. Sharpe’s grant with a deep sense of responsibility for preserving the natural beauty of the land. In preserving an oasis of green amidst the urban sprawl, the Fresh Air Fund believes it is performing a broad civic role even beyond that of providing

inspiration, education and fun to children of all races and creeds trapped in the stone caverns of New York City."

This sentiment is mutually shared by executives of scores of voluntary welfare agencies in New York City who maintain camps in the countryside surrounding the city, or who would like to if the property were available to them.

These executives would like to find others like Dr. William Sharpe, who see conservation as a kind of total concept, and whose lands would be suited to such a purpose. As Governor Nelson A. Rockefeller said at the dedication of one of the many camps now located on the tract, "These hills will mean sheer joy to thousands of youngsters to come."



Swimming and boating suddenly became a miraculous reality to the slum-bound children of the city when Dr. William Sharpe donated his 1,000 acre Fishkill retreat to the Herald Tribune Fresh Air Fund in 1949.

THE WILLIAM L. HUTCHESON MEMORIAL FOREST Shared Stewardship

In 1701, the first European settlers in Somerset County, New Jersey, began to fell a centuries-old forest of oak, beech, red hickory and white ash to make room for their homesteads and farms. The trees they cut were part of a mature and relatively stable community of vegetation and animals that might have persisted with little change for centuries more had it not succumbed to the inexorable expansion of migrants from the Old World.

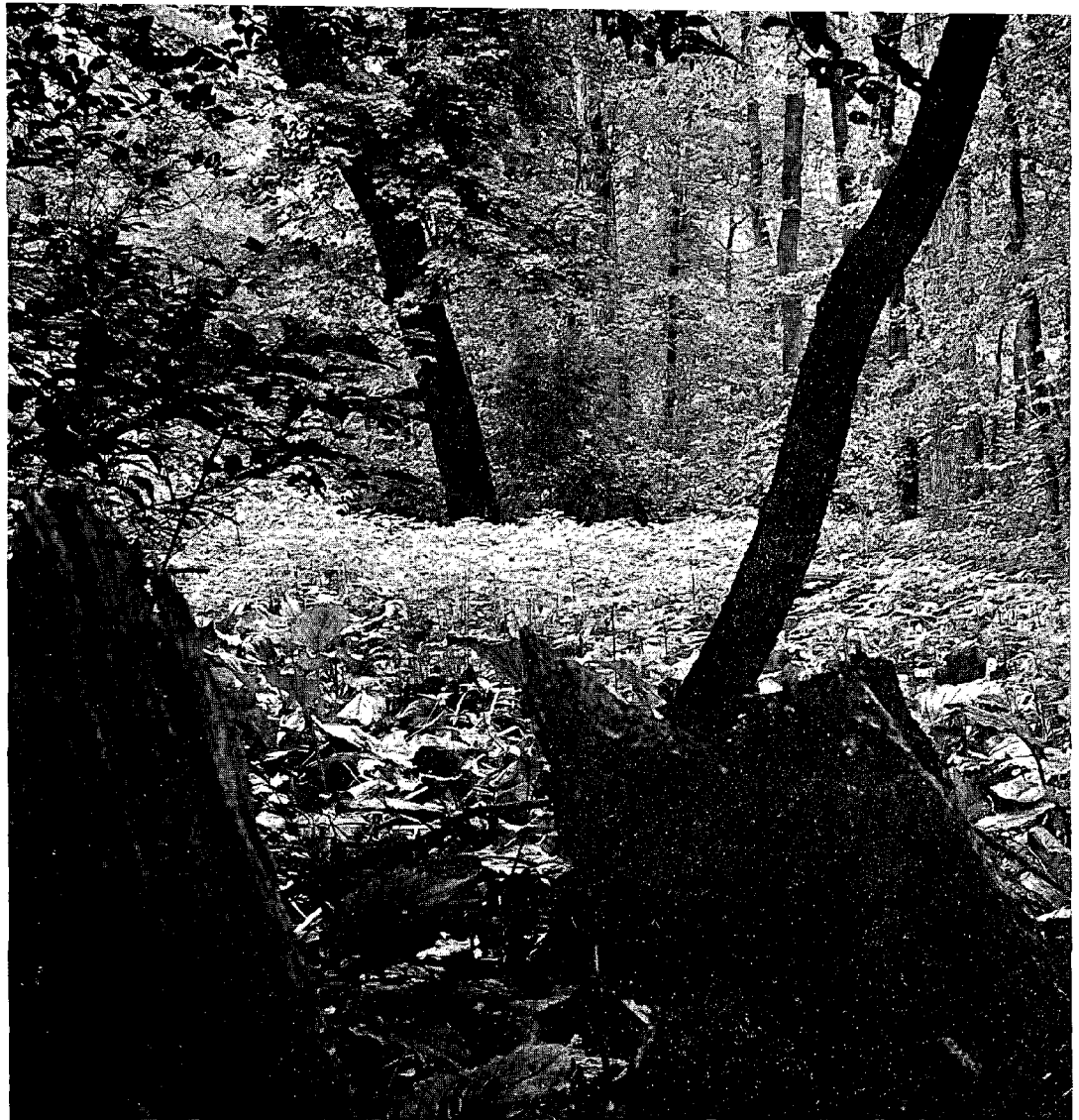
Two hundred and fifty years later, Mr. Thomas Mettler, a direct descendant of one of the original colonists of East Millstone in Somerset, surveyed hurricane damage in a woodlot that had been in the continuous ownership of his family for eight generations. He knew there was not another woodlot like "Mettler's Woods" in all the county, probably in all New Jersey, and his feeling was akin to that of a museum director towards a priceless and irreplaceable exhibit.

Occasional hurricanes, natural fires and ice storms, abetted by the demise of old trees, had opened the canopy from time to time and provided room and light enough for the forest to regenerate. Later, periodic Indian burning had encouraged species resistant to fire. Here, since 1711, there had been no record of a damaging fire, nor had a tree been felled by axe or saw.

Now, in the aftermath of the hurricane of November, 1950, Thomas Mettler stood in the middle of a tangle of trunks and mounded roots of the wind-downed trees and wondered how long his woods could survive. Though many of the oldest trees remained, over 200 of them had fallen in this latest onslaught of nature.

But a new set of forces far stronger than any of the hurricanes that had shaped the woods over the centuries now were poised, unseen but real, capable of leveling all that remained of the woods in an instant. These were the forces of suburban real estate economics, and for several years they had been testing the strength of Thomas Mettler's sense of stewardship.

It was the hurricane that provided the opportunity for the economic forces to make themselves fully felt. True, taxes on the land had been mounting steadily, making it less comfortable to hold onto land that produced no economic return. But when Mr. Mettler returned to the woods a few weeks later with a saw mill operator to see if he might not derive some compensation from the salvage of the downed timber, the pressure came to a head. The saw mill man saw beyond the salvage rights. He saw the thousands of board feet of prime standing timber, virgin timber in an area where most woodlots had been lumbered over several times. How would Mr. Mettler like to sell the rights to the standing trees?



In the William L. Hutcheson Memorial Forest old trees die, new ones rise to take their place in a natural cycle uninterrupted for 250 years. Thomas Mettler, whose family owned this woodlot for eight generations, helped pass the woods on intact to a new set of stewards—Rutgers University—by offering the land at a reduced price and holding it off the market so that funds for its purchase could be raised.

When the offer to purchase the timber rights was formally made, it was high enough to make the staunchest steward pause. Though born on the farm, Mr. Mettler was a business man so that his feeling for the land was tempered with practical considerations for financial matters. In the face of such an overwhelming inducement to escape from onerous taxation and to enlarge his estate in a dollar sense, it was fortunate that the tradition of stewardship was still strong. Mr. Mettler knew that he was in no position to hold onto raw, undeveloped land of such great value; nor could he afford simply to give it all away. Luckily, there were others anxious and able to take up the tradition and maintain it.

The threat of loss of so completely unique a forest community became the unifying factor that led to the permanent preservation of the woods. First to join were those who had in a sense already shared stewardship over the woods with Mettler. For years the botany department of Rutgers, now the State University, had been using Mettler's Woods as a research area. Based at the University, a Citizens' Committee for Mettler's Woods began a campaign to raise sufficient money to purchase the old woods and a surrounding buffer of second growth and fields as a research station and "living museum." As a contribution to the cause, Mr. Mettler agreed to drop the price for the 136 acres to \$75,000, far below the market value for timber and suburban development. More than that, he gave the Committee time in which to conduct their campaign.

The coincidental death of one of the nation's great labor leaders just at the time the threatened sale of the land became known, and a year before the formation of the Citizens' Committee, turned out to be the key to the successful preservation effort. William L. Hutcheson was a founder of the United Brotherhood of Carpenters and Joiners and its president for 38 years. After his death in 1953, the Union began searching for an appropriate way to memorialize his long years of leadership and service. To the officers of a union whose membership each day worked creatively with wood, and whose livelihood depended on the renewal of forest resources, the preservation of a virgin woodland for university research and citizen appreciation seemed to be an ideal memorial. The Union offered to share substantially in the tradition of stewardship with some 1400 other contributors of funds and agreed to transfer from their treasury the \$75,000 needed to purchase the land. The \$50,000 raised by the Committee from school children, housewives and businessmen as well as such organizations as New Jersey Audubon, The Nature Conservancy and the Butler Foundation went into a trust to create an endowment for research and maintenance.

On October 15, 1955, title to Mettler's Woods was turned over to Rutgers University at dedicatory exercises, and its name was officially changed to the William L. Hutcheson Memorial Forest. The 250-year tradition of stewardship was passed on intact and strengthened. The opportunity to appreciate and to learn from its unbroken biological legacy was preserved.

Today the professors, graduate students and undergraduates of Rutgers have begun the process of finding out the complex interrelationships that govern the growth and evolution of varied plant-animal communities in the fields, woods and brooks of the forest and its buffering fields. Thanks to the stewards, the process will continue, and its benefits will be distributed, for generations to come.



The preservation of these woods by Mrs. Robert McKay was made possible by the use of an easement to Nassau County. An "open space" easement is a way that private open space can be maintained by reducing the property tax liability that comes with increasing development pressure.

"CHELSEA" Public Rights to Private Property

A new statute and a "new" way of thinking about open space have helped make it possible for landstarved Nassau County on Long Island to preserve a beautiful estate—"Chelsea"—near Syosset—at no public cost for acquisition. The county will soon start developing the land as a nature center.

The statute is Section 247 of the New York General Municipal Law which officially sanctions a concept that the owner of a piece of land may parcel out to others any of the rights that ownership entails, yet still retain enjoyment and possession. Rights-of-way, hunting rights and mineral rights are familiar examples. Less familiar are the rights to undisturbed, unspoiled open land, known as conservation, scenic or open space easements or development rights.

The agreement of December, 1964, between Nassau County and Mrs. Robert G. McKay of East Norwich serves to illustrate how governmental units and landowners in the metropolitan region can obtain mutual benefits through a sharing of the rights in land. The variations are infinite.

The factor central to the legality of such a concept is this: open land may serve a public purpose regardless of who owns it and even independent of public use, so long as its open status is given some permanence by legal agreement. The benefit to landowners is that Section 247 also provides that, "After acquisition of any such interest pursuant to this act the valuation placed on such an open space or area for purposes of real estate taxation shall take into account and be limited by the limitation on future use of the land." Horace Kramer of the Board of Nassau County Assessors has remarked that the county would be interested in open space "if it merely provides trees and grass to keep aspects of nature in the suburbs." Other public officials elsewhere have agreed access is not essential.

Mrs. McKay, however, was not satisfied just to have the land kept open. She wanted it used, and because of her interest in nature and children, she granted the county the rights to use 58 acres of her 95 acre estate if it would agree to develop a nature center there. The county readily agreed. It also agreed to consult her on plans for the center, including buildings and trails. Mature trees and shrubbery were not to be disturbed.

Mrs. McKay granted the county an affirmative easement to use her land. An easement, unlike a license or lease, has permanence. It is recorded with the deed and is normally binding on subsequent owners. While Mrs. McKay could have achieved her intentions with the easement alone, it is her intention eventually to give the entire 95 acres for nature study and related purposes. A clause in the agreement binds the

county to accept the property and use it in this way. County ownership of land adjacent to the property under easement, it should be noted, strengthens the easement in a legal sense.

Mrs. McKay could have donated the land through a testamentary gift, or she could have given it and retained the right to live on her land until her death. But the arrangement worked out under Section 247 has provided personal and financial advantages otherwise unobtainable. She now will continue to enjoy during her lifetime the lovely property she has created. She is now sure that her land will be used for public enjoyment and enlightenment in a predominantly undeveloped condition. She now has the considerable pleasure in helping the nature center and its program take shape. And she is now able to donate her gifts of land at a rate permitting her to take better advantage of income tax deductions without overbalancing her other charitable interests.

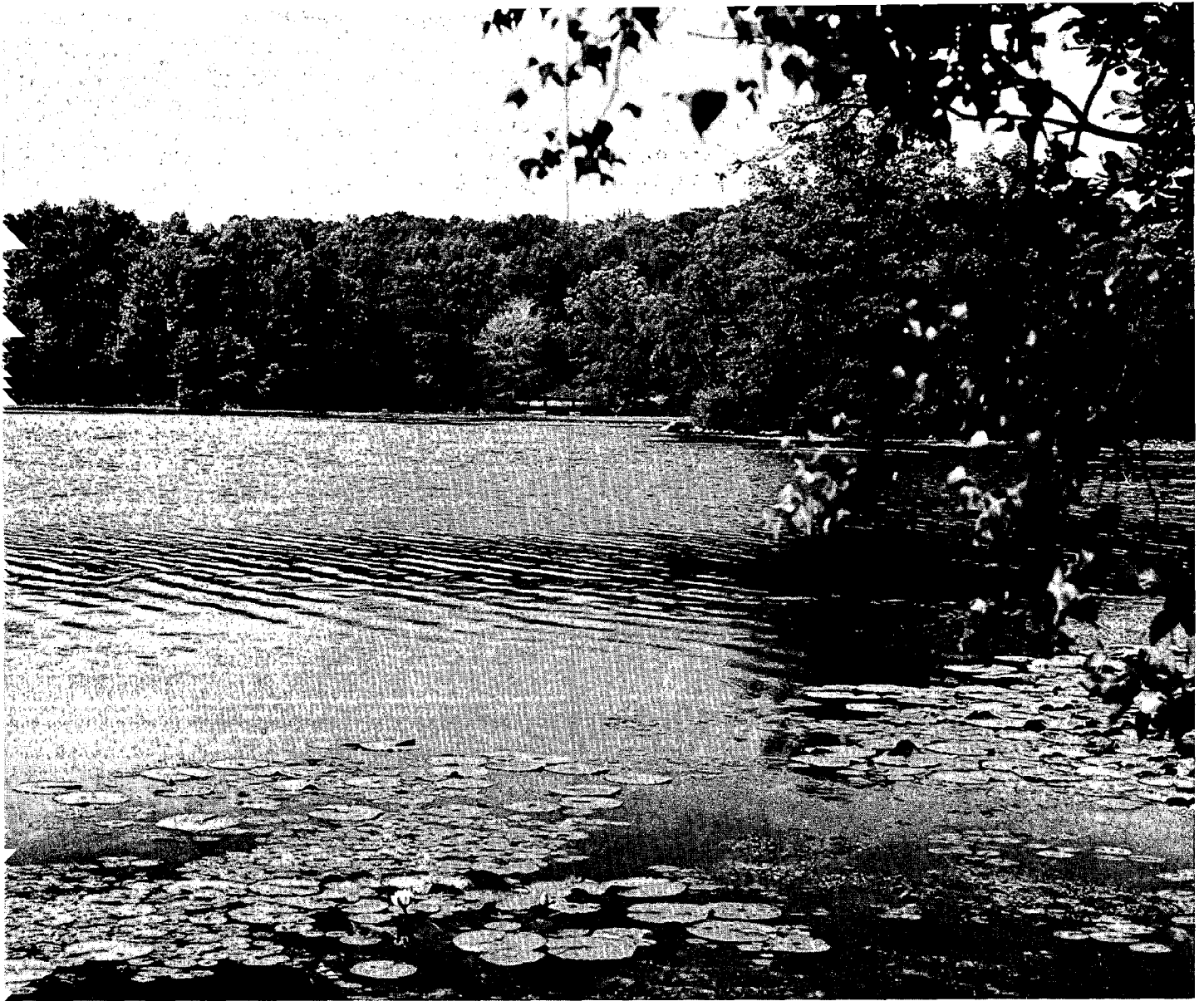
Nassau County officials are hopeful that other landowners will follow Mrs. McKay's example in applying Section 247 to suit their particular needs. "The arrangement may be an answer to the problems of large estate owners and possibly golf clubs," says Eugene H. Nickerson, County Executive. He was referring to the fact that landowners who surrender some of the rights can be taxed only on the value of the rights they retain, whether they grant a public agency the right to use their land, or may merely give up their right to develop it.

As for Mrs. McKay—the first land steward to pioneer the use of Section 247—Nassau County officials have acted on her application for a reduction in the assessed value of "Chelsea." They have reduced the valuation of the land under easement by approximately 75%, and in addition, have lowered the assessment on Mrs. McKay's residence and its immediate grounds by 10%, because public use of the property entails some loss of privacy.

The town of Syosset, to which the taxes are paid, and Nassau County feel they have made a good bargain. They hope their action will encourage other estate owners to consider the conveyance of open space easements to the county in order to ease their considerable tax burden and at the same time preserve Nassau's diminishing green space.

TEATOWN LAKE Help for Complex Problems

The exercise of stewardship can be strenuous. Even the apparently simple act of transferring a piece of land from a philanthropic donor to a public or quasi-public agency is seldom swift or easy. But help is almost always available, if one knows where to look. Indeed, there are a number of experts—groups or individuals—anxious to serve. Members of the Swope family of Ossining, New York, turned to Richard H.



Interlocking family ownership complicated the problem of finding a suitable recipient of title to Teatown Lake. The Swope family turned to Richard Pough, a conservationist who specializes in helping land philanthropists. He was able to help them bring the transfer to a satisfactory conclusion.

Pough, a noted conservationist known to them for his broad experience in aiding in the transfer of land from private owners to non-profit or governmental agencies.

The Swopes found that Mr. Pough's knowledge and insight gave direction to a problem made more complicated by the fact that it involved the title to a single piece of property, five donors, and a family corporation.

The question of philanthropic intent had been settled early. The

three Swope brothers, their sister and sister-in-law had all agreed they wanted to give, for public purposes, 193 acres of the estate near Ossining they had inherited from their family. They all felt sure a way could be found to blend their collective inclination towards philanthropy with the highly specified personal and financial needs of each individual.

Family unanimity was a tremendous advantage. There were no stubborn holdouts to deal with. No one wanted the land for personal use or speculation, despite its great beauty and prime location. And all of them shared a deep personal interest in making a park of the woods and fields they had explored and enjoyed so much during the years it was the site of the family home. Teatown Lake, created in 1926 by their father, had become well known as a stopping place for waterfowl and shore birds, adding greatly to the attractiveness of the property.

Half the problem was to develop a method of transfer that would enable each member of the family to give his share at a pace conforming to his special financial needs and responsibilities. An individual's philanthropic capabilities vary with his professional and financial circumstances, which may change from year to year. Clearly a flexible instrument was required in order that Henrietta Swope, an astronomer, Elizabeth Hubbard, a housewife, David Swope, a real estate investor, Gerard, Jr., a lawyer and John, a photographer, would be able to satisfy their dissimilar needs.

The other half of the problem was to find a recipient. In any philanthropic transaction, the donee must not only be capable of carrying out the intent of the gift, but also able and willing to accept its terms. In land philanthropy, the search usually requires a certain amount of legal legwork and cross-country communication on the initiative of the donor, and this was the case with Teatown Lake.

For the Swope family, the exercise of stewardship involved an exploration of a variety of means of transfer in the company of the family's legal and financial advisors, as well as a search for a recipient under the guidance of Dick Pough.

A tentative offer to Westchester County was unsuccessful: a legal obstacle was discovered that precluded acceptance of the land by the means proposed. But the Brooklyn Botanic Garden, an institution the Swopes would probably have overlooked because of its urban headquarters and horticultural program, expressed great interest. The Garden was already operating a research field station at Kitchawan, only a few miles from the Swopes' land and it was anxious to broaden its educational program. The Teatown Lake property was ideal for its purposes.

Nor would the method of transfer that had now been decided upon create any problems. Shares in the family corporation owning the land were to be distributed equally to each member, who in turn would

transfer them to the Botanic Garden over a period of time. It was the inability to accept corporate shares that had removed Westchester County from the picture (a failing since remedied by an act of the Legislature). During the transfer, the family and the Garden would share administration of the property. And should the Garden ever find it necessary to dispose of the land, a prospect Director George Avery feels is extremely remote, the agreement gives Westchester County and the Town of Yorktown the right to obtain it for public use.

Today, the land is open to the people of the metropolitan region for enjoyment in its natural state. The Botanic Garden is busy with plans to make the area an educational and recreational asset to nearby communities. And the Swope family, with professional help, has had the satisfaction of completing its philanthropic stewardship.

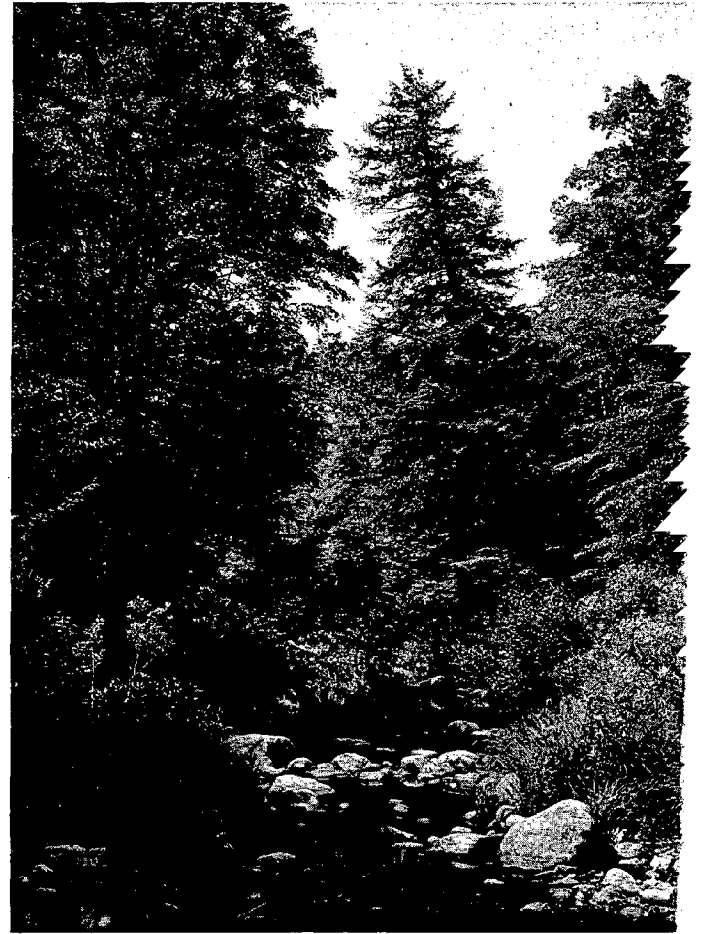
THE BANTAM RIVER Accumulating Value by Covenant

The Bantam River is a prominent and lovely feature of the still rural countryside near the village of Litchfield, Connecticut. Though it cuts through farmland and the residential area of the village, the stream is generally wild, unfettered, freeflowing. Its character varies according to the immediate terrain. Here it flows past a small cattail marsh bordering a low, broad floodplain. Around the next bend, its banks become steep and rocky, covered with a dense grove of mature hemlock.

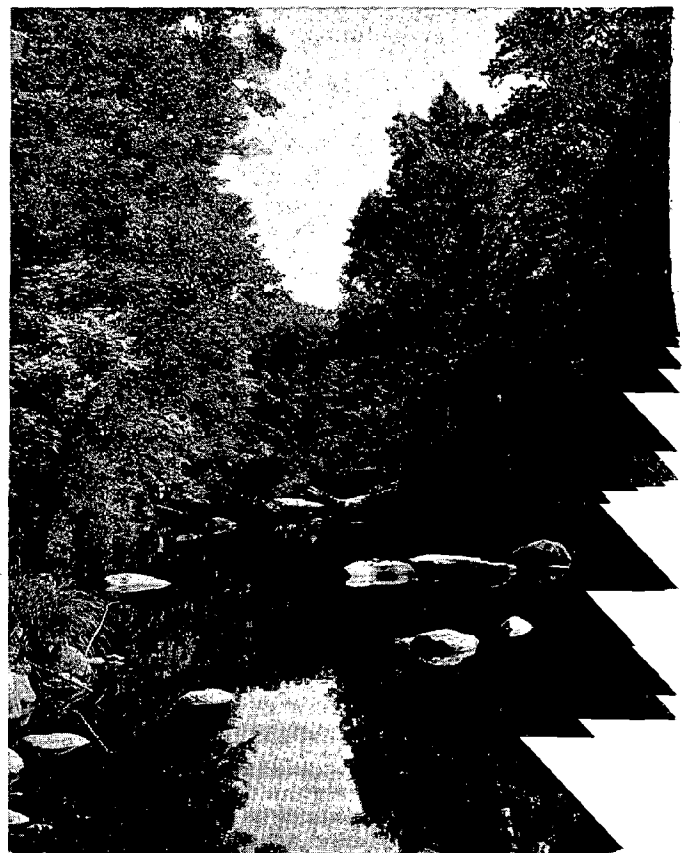
For the most part, the houses and other buildings of Litchfield do not intrude on the Bantam, but are set on the higher land some distance away. North of the village, the property of Dr. Sydney R. Kennedy, Jr. borders a quarter-mile stretch of the river. Woods and fields slope from his home to the East Branch. The land is wild. Dr. Kennedy, an amateur botanist, writes: "The existence of a 'wilderness area' even in miniature near to me seems to be close to a personal necessity and should it disappear I think I would remove myself elsewhere."

A half mile away, on the West Branch, Mrs. Charity Wilson has another reason for cherishing her property. "My whole family, children, grandchildren, and I get a great deal of pleasure from the river, through all the seasons of the year," she says.

Downstream, the channel of the Bantam cuts through the village itself. Houselots between South Street and the river are not so generously proportioned as those upstream, but along the river the land has remained largely wild and natural. To Edward and Mary Hall, the woods behind their home are reminiscent of the kind of open country so easily accessible when they were growing up and now so fast disappearing. Says Mr. Hall: "I would like my grandchildren to have wilderness to walk in, solitude to feel a little bit frightened in, wild things to see and hear and feel and make a little boy feel very little indeed." Remembering



Three scenes of the Bantam. As it winds through the town of Litchfield, Conn., the river passes from bright meadow to hemlock gorge to wide pools where children can swim. The Bantam is being preserved via covenants with The Nature Conservancy, Inc. of Washington, D.C. The agreements provide for permanent preservation but not public access. The owners are not sure whether theirs is an act of philanthropy or enlightened self-interest. Architect Thomas Babbitt who like the others has donated a 200 foot wide strip along his section says flatly, "I think it increases the value of my land."



her own childhood, Mrs. Hall feels constrained to add, "Little girls may not go as deep into the woods, but I think they get just as much fun out of it."

Obviously, these owners share more than a riparian location. They share a common sense of stewardship, a feeling that their land should be preserved at least in part in a wild state. They also share the realization that their lands are linked by the narrow stream valley in a common fate, even if they are not contiguous. The problem: How to take effective action. There are the complications that some of the holdings are small, most of the owners want to live on the land, some want to sell part of it, and few are in a position to give any away.

Despite these and related difficulties, these three owners and seven others along the Bantam have acted to place permanent restrictions on a strip of the river valley so as to preserve its naturalness. They have retained possession of the land and all the rights to use it and enjoy it except for the few restricted actions: no tree cutting, no billboards, no removal of soil or gravel, no buildings or roads. These ten landowners have entered into a common agreement, known as a covenant, with The Nature Conservancy, Inc., of Washington, D. C., under which they have voluntarily given up these rights on a strip of land extending approximately 200 feet from the river's edge. Because the covenant "runs with the land" and binds future owners, the agreement assures them that their stewardship will have some enduring significance.

The fact is that none of the landowners feels he has sacrificed anything. Some, like Dr. Fowler F. White, rate their action as somewhat minimal when compared to large donations of land by philanthropists. Thomas C. Babbitt admits of a selfish motive, "I think it increases the value of my land. The river was one of the most important reasons for buying this particular piece of land, and anything that protects its natural state protects an asset of real value to me. I think it is also likely to be important to any future buyer." A further reason, according to Mr. Babbitt, was that of setting a precedent. "I hope that others may be persuaded by my example to do the same, which will protect the river on my land even more," he adds.

Like the others, Mr. Babbitt's basic motive is one of preservation. "I enjoy the river now," he says. "I hope that future generations will have a chance to do so also." To increase the likelihood of his hope coming true, Mr. Babbitt has given the Bantam River project added legal strength by donating one acre to the Conservancy outright, while placing the rest under the covenant.

Downstream, at the other end of the project, Mr. Sherman P. Haight, Jr. has donated a similar "anchor acre" to give the covenants longevity. Mr. Haight lives in the village, where already a few changes



These two sanctuaries are part of a complex of private donations in Northern Westchester, Butler (right) is owned by The Nature Conservancy, Westmoreland by a private trust set up by the donor, Helen Frick.



have taken place along the stream in the commercial section. With the others, he could foresee a time when housing and commerce might eliminate what he believes to be the most precious natural asset of the Litchfield area. It now appears that a sense of stewardship and a corollary willingness to anticipate change is winning the battle of the Bantam even before the signs of war are much in evidence.

LEONARD PARK TO BYRAM LAKE The Momentum of Open Space Preservation

An act of stewardship is rarely isolated. Usually it stems from a previous incident. Often it leads to others. Sooner or later, here or elsewhere, an act of stewardship is bound to engender others. And often, in a single community, several deeds of diverse origin become physically or functionally related to provide an enrichment of the environment far greater than the separate parts.

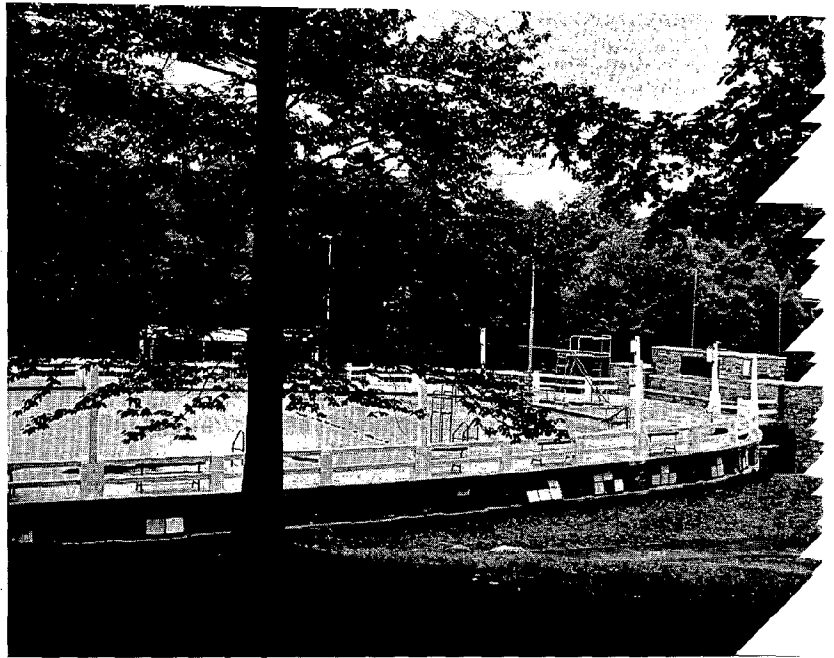
The community of Mt. Kisco, New York, has been immeasurably enriched by a series of land philanthropies both within the Village proper and in the towns immediately surrounding it. Since 1934, six landowners have made gifts of land to the Village and to private conservation organizations. By coincidence, the parcels all lie in a generally southeasterly direction from the Village, and their story can be told by a four mile hike from the Village Hall to Byram Lake.

A scant half mile from the steps of Village Hall is the entrance to Leonard Park. Come there on a pleasant weekend almost any time of year, and you will be impressed that a good proportion of the youngsters of the Village and not a few adults have found their way there too. Leonard Park is intensively used for many sorts of recreational activity, in accordance with the deed of the gift from Col. William H. Leonard. In 1934, Col. Leonard, whose family had lived in Mt. Kisco for many years, gave 78 acres of land "to perpetuate the memory of members of our family, William Henry Leonard who died in 1891, and son Robert Woodward Leonard, who died in 1929."

The land just to the east of Leonard Park is undeveloped and relatively wild, lying in a large triangle comprised of Bedford Road, Byram Lake Road and Sarles Street. In 1955, a parcel of 27 acres along Bedford Road and contiguous to the park was given to the Village by its owner, the Reader's Digest. Behind the corporate facade, the generous hand of Lila Acheson Wallace was a signatory to the grant. The land bears more than a physical contiguity to the Leonard gift. The wording of the deed is identical.

The eastern portion of the park is still a woodland, a fine place to explore but not very deep. One trail extends out of the park clear to Sarles Street, roughly a mile. Part of this trail is on the nature reservation of Wildlife Preserves, a 26 acre property assembled by a com-

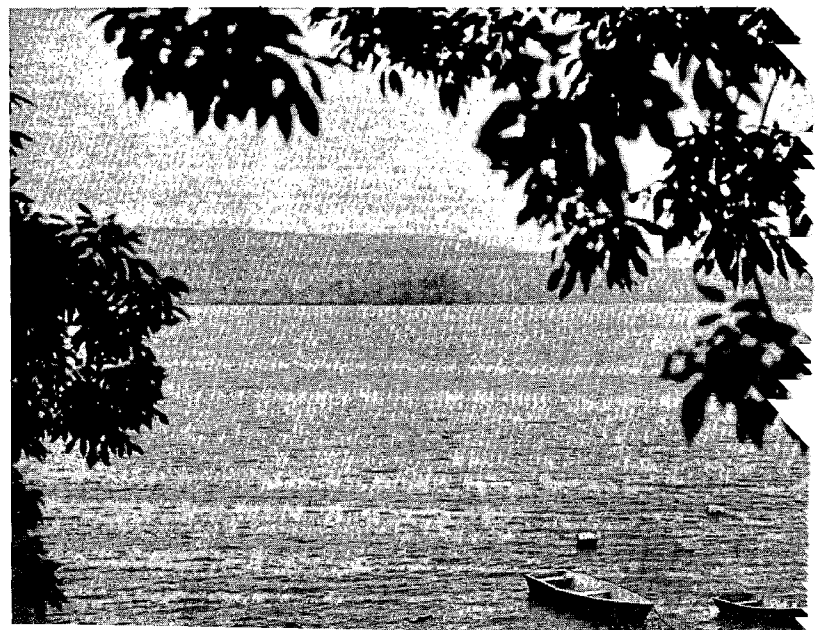
The pool at Leonard Park early on a summer morning. Col. Leonard started a chain of stewardship decisions with his gift of land to Mt. Kisco in 1934.



The Cornelia Van Rensselaer Marsh Memorial Sanctuary abuts Leonard Park and coincidentally contains a marshland rich in wildlife.



Rounding out the series of donations is Byram Lake, a gift of the late Eugene Meyer, publisher of the Washington Post. Singly, each of the parcels is important. Together, they constitute the preservation of a good sized chunk of Northern Westchester.



mittee headed by Norman Marsh in order to prevent the destruction of the valley and a high quality marshland extending down its center. For the curious, the vegetation along the trail has been identified by markers. Because several kinds of habitat are traversed, including old fields, woods, shrub swamp and marsh, there is a great deal to observe and hear and enjoy, and all within a mile or so from the center of the Village.

If one knows the way, bridle trails lead from the edge of Sarles Street up to Chestnut Ridge, another mile beyond. Here, side by side, on opposite sides of the road are the Butler Sanctuary of The Nature Conservancy, Inc. and the Westmoreland Sanctuary. The Butler Sanctuary was established in 1955 by a gift of 234 acres of wooded hillsides and a fine wooded swamp by Anna R. Butler. The trails of the Sanctuary are regularly used by school children and teachers of the Mt. Kisco and Bedford schools, guided by volunteers from garden clubs and other organizations. Adults seeking seclusion in a natural environment are welcome to wander the trails through the woods, fields and swamp. The Conservancy estimates that at least 4,000 people use the area annually. Mrs. Butler's gift engendered another soon after, when 20 adjoining acres were donated by Mr. Walter Huber.

To the east, across Chestnut Ridge Road, lies the 105 acre Westmoreland Sanctuary, given and maintained by Miss Helen Frick. Under the direction of a year-round resident naturalist, Westmoreland conducts a full scale nature education program for the schools of Mt. Kisco and neighboring communities. Each year thousands of school children of all ages are given an introduction to field biology and ecology. Older pupils participate in a program of field research that is adding to the effectiveness and usefulness of Westmoreland to the community.

Not far to the southwest of Westmoreland in a cleft in the ridges, lies a lake that now serves as a source of the water and recreation for the Village of Mt. Kisco. Byram Lake was given to the Village in 1958 by the late Eugene Meyer, publisher of the Washington Post, who maintained a home nearby. This narrow strip of water, with its steeply sloped sides densely wooded, is a pleasure just to behold, whether in frosty mid-winter with a variety of diving ducks moving about its surface, or in steamy mid-summer with swarms of water skimming swallows lacing the air. The Village sets an excellent example in the varied use of a water supply by permitting boating and fishing on Byram Lake.

The obvious beneficiaries of all the aforementioned decisions are the people of the Village of Mt. Kisco and the area of northern Westchester where the land is located. Each succeeding decision enhanced and was enhanced by the others.



Instead of selling unwanted land and then giving money to, say, his University, the philanthropist should consider using the land as a direct philanthropic tool. New organizations, new laws and new techniques have provided important estate planning flexibility for the land donor.

IV

LAND PHILANTHROPY

THE MOST DIRECT expression of stewardship for the private owner of land is to donate it to some agency of government or private organization for public open space use.

There are more cases of land philanthropy than one might expect, and it is for this reason Chapter III introduces so many examples of it. The last known national survey was made back in the early 1930's by the National Recreation Association. Their study showed that at that time something over 50% of all public or quasi-public parkland and open space was being acquired through philanthropy. The Regional Plan Association calculates that 30% of all federal, state and county parkland in the New York region as of 1959 was donated. Local and quasi-public open space was not included in the survey. These figures may be higher or lower today, but there is no disputing the fact that land philanthropy is a major source of open space and probably will continue to be for the foreseeable future.

The primary motives for land philanthropy range from pure altruism to pure self-interest. An example of the former is the thousand acre donation by Dr. William Sharpe to the Herald Tribune Fresh Air Fund which was treated in Chapter III. An example of the latter is best illustrated by landowners crippled by taxes who must dispose of their land, but who would give contiguous "back land" away in preference to having it developed if such development would devalue their retained holdings.

In the course of doing the research for this book, many landowners were interviewed, and in a few cases, donors were more inclined to describe themselves as hard-boiled businessmen than as philanthropists. But in every case, there was a *feeling* for the land and the splendor of nature.

No matter how deep this feeling goes, land philanthropy is a complex affair, and involves a good deal more deep thought than the relatively simple process of putting acreage on the market and waiting for a good offer. Moreover, the potential land philanthropist must be realistic about his own self-interest, whether this is a primary motive or simply a fringe benefit.

ESTATE MANAGEMENT: THE FORMS OF GIVING

There are compelling arguments why certain landowners should consider the donation of their property for public-interest open space. And it should come as no surprise that almost all the compelling arguments revolve around one thing: taxes. Taxes have created a ripe climate for land philanthropy; riper in many ways than the more traditional philanthropy which involves the transfer of money or securities for a charitable purpose. The increased market value of suburban land together with tougher assessment policies on the part of taxing authorities who somehow must find the money to provide for education and other community services have produced onerous property tax levels for many landowners. Even the capital gains tax can take a hurtful bite when land value has increased manyfold since the purchase date. To these newer considerations can be added the traditional concern with income, estate and gift taxes that occupy the thoughts of those of relatively high economic status.

There are instances where the giving away of land nets the owner's estate greater solvency. Even without this possibility, however, there are so many variations in land philanthropy—such flexibility in mode—that the owner might well ask his legal counsellor to study very closely indeed the tangible rewards of a gift of land.

The owner of a large suburban estate can sever a part of his property, for example, and by giving it to a municipality or conservation organization convert it into a nature sanctuary. He escapes property taxes which more and more are based on development potential rather than existing use. No capital gains tax is assessed against appreciated property when it is given to a tax-exempt body. But the value at the time of giving can be deducted from taxable income up to the limit for donations (now 30% of adjusted gross income for education organizations such as Nature Conservancy, Audubon and others). This deduction can be spread over a period of years by donating an undivided interest serially. With the new tax regulations allowing for spreading deductions over a five year period, the whole interest in many properties might easily be conveyed at once, but the regulations don't prohibit partial donations at five year intervals so that the gift could be spread over ten, fifteen or even twenty years. To guard against premature death frustrating the donor's intentions, he can will his remaining interest to the exempt organization.

By the judicious selection of a recipient who will accept deed restrictions (more on this later), the donor has control over the future use of the land. A bird sanctuary-type use limitation is a popular idea with many philanthropists because even though the land has a public purpose and educational value, its actual use in terms of numbers of

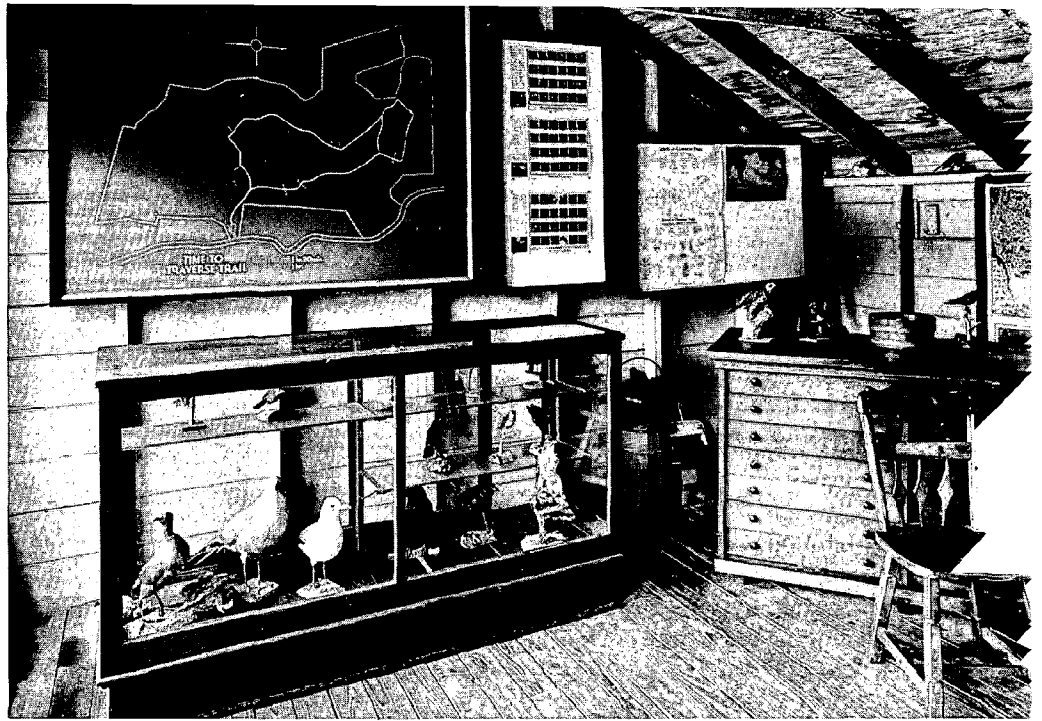


Steeply mounting property taxes plus income and estate tax considerations have persuaded many landowners to donate unimproved acreage for low intensity open space use—such as a sanctuary—in preference to having retained holdings devalued by adjacent development.

visitors often is little more than what such a landowner would expect from trespassers. Moreover, the land he has given away might be safer from fires, littering, poaching and destruction of natural features than under any kind of protection he might be able to provide on his own. Another advantage is that in transferring proprietary feelings to the community or at least an effective segment of the community, the property is less susceptible to misuse and maybe even to condemnation for uses that would not make particularly good neighbors.

Variations on this theme would include making a testamentary gift of both the house and grounds, or tenancy arrangements could be made for heirs through a leaseback at a nominal figure or some other means such as the withholding of an easement of use for a specified period of time. For lifetime gifts, a tenancy arrangement can be achieved by special agreement with a tax-exempt organization which could also provide an annuity during the donor's lifetime. When an owner cannot

"Improvements" on sanctuary grounds are usually limited to interpretive displays or a modest reception center such as this one at Butler Sanctuary.



afford an outright gift or lacks enough philanthropic exemptions, he could elect to sell the property at cost to a tax-exempt buyer. This eliminates capital gains while restoring original capital which is not taxed. However, the appreciation is a deductible donation.

For the owner with a high order of *noblesse* and a large philanthropic capability, an endowment should be considered. With an endowment, a much wider variety of recipients is available among private organizations and the donor has a great deal more opportunity to dictate the conditions under which the gift is accepted. The endowment can be in the form of a gift or bequest of cash or securities. A less common means of creating an endowment is the sale or lease of the house and its immediate grounds by the recipient organization. This is a perfect arrangement when the house is at an edge of the property, less so when it is buried in the middle at the end of a long driveway.

Endowment principal may be managed by the recipient organization or by a trustee. A trust company can manage investments and remit income under instructions as well as, in some instances, supervise the management of the property. Indeed the use of trusts makes possible the widest range of solutions to estate problems.

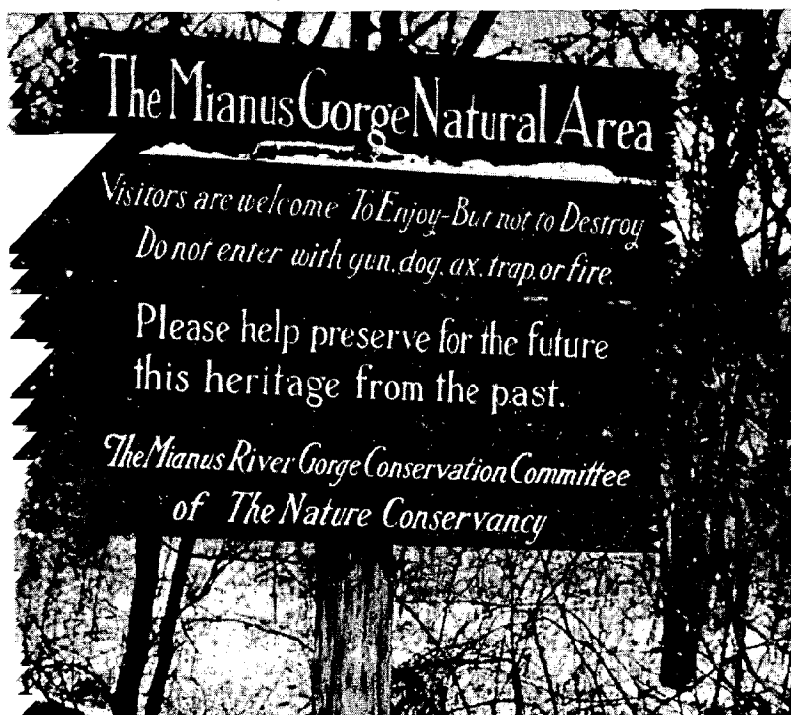
The catalogue of devices for land philanthropy is getting fatter by the minute as landowners, with the help of their legal advisers, discover new means by which they can best serve the interest of their overall estate as well as act on their inclinations toward the landscape. For one thing, there are simply too many cases where the giving away of land with a high accrued book value might—had it been considered—have obviated the sad and frustrating experience of heirs and trustees forced

to sell the family acreage to the wrong people at the wrong price in order to pay taxes due. Even when this is not a factor, many owners are becoming convinced that their land—especially if it lies within a metropolitan area—has such intrinsic worth that it should be considered as a separate part of the estate with separate criteria and not lumped along with securities or other assets whose disposition is so often purely a matter of mathematics. Land is proving so flexible as a direct philanthropic device that its simple conversion into cash can destroy not only the landscape itself, but lose the owner a unique opportunity in estate planning.

WHAT KIND OF USE?

Once the landowner has more or less defined his philanthropic potential in terms of estate management considerations, he can and should turn his attention to the use of the land he is interested in preserving—or to put it more precisely, the non-use uses which are consonant with the preservation of land as open space pretty much left in a natural condition. There are infinite variations and combinations of use for public-purpose open space whether the ownership is a unit of government or a private, non-profit organization. It might be helpful to identify some categories, however, if only as a point of departure for the thinking that the potential land donor must do.

First, there is the *recreation park*. Most of these, no matter where they are, make provision for active recreation such as swimming, team sports and children's play areas. They frequently have such features as barbecues, picnic tables, planted areas, pathways, buildings and rest rooms. Recreation parks are usually thought to be an egregious intrusion when proposed but a thoroughgoing community asset when developed. A recreation park tends to stabilize the surrounding area into low-density, high-priced housing. In a relative way, this is as true of Central



Conservation organizations like to have endowments with the acreage to provide for management. But a dependable cadre of volunteers can do it themselves or solicit funds. The remarkable Mianus River Gorge Committee has bought, begged and borrowed to assemble and maintain six wilderness miles of the river between Bedford and Greenwich. They are now accumulating endowment principal.

Park in New York City as it is of county parks in the suburbs. There is always a brisk demand for adjoining property which is usually better maintained than similar properties in non-park areas.

Probably the most popular use-category for today's land donor is the *natural park or sanctuary*. Like the recreation park, it is open to the public, but there is little or no development of the site. Recreation in any form, save hiking and nature observation, is usually banned. (Brinton Brook Sanctuary, described in Chapter III, issues 12 fishing licenses in order to keep optimum pressure on the fish population in the pond. Getting one is like being tapped for knighthood.) A sanctuary is a kind of use which leaves the land in its original state except for trails, trail markers, sometimes a small exhibition area or building. Some sanctuaries have positive ecological management policies calling for selective cutting, burning or spraying, for example, to preserve a representative plant community. Others prefer to let nature take its course even though such a practice might force out desirable plant or animal species. A concern with ecological policy is apt to be uppermost in sanctuaries owned by non-profit private groups such as Audubon, Nature Conservancy, Wildlife Preserves and others, while facilities are more elaborate at governmentally owned areas. But most sanctuaries have a low incidence of public use, being attractive only to those who are sincerely interested in nature. An examination of guest books at almost any sanctuary entrance will reveal a small group of dedicated visitors returning again and again, each time pencilling in a field note or two on the location of an oriole's nest or the sighting of a red fox.

A specialized or biologically unique property might suggest a use as a *wildlife refuge* or a *scientific reservation*. In these two instances, public access is either secondary or in some cases, prohibited. Large wildlife refuge areas are usually owned and managed by the state or federal government departments, and typically, the wildlife they're interested in is game. Smaller refuges are often owned by national or local conservation organizations. A good example of a scientific reservation is Mettler's Woods described in Chapter III. Usually scientific areas are selected because of botanically unique vegetation or floral variety and their existence has little or nothing whatsoever to do with recreation. Indeed, the public is barred from many of them, or at least access is prohibited without express permission from the managing authorities. Virgin woodlands, or very, very old climax forest types should be protected in this way. Also bogs, with their unique plant community, ought to be restricted in use. One-of-a-kind plant communities, such as the Sunken Forest on Fire Island, with its dense cover of ancient wind-pruned holly trees, should probably be considered scientific areas.

An extension of the scientific reservation category is the *school*

natural area, owned by a school district, which can be used by science classes as an integral part of science education in the primary and secondary grades as well as at the college level. These areas, which are still few and far between, are beginning to gain the interest of school administrators and curriculum specialists and promise to become an important open space use in the future.

At the very edge of the metropolitan complex, and requiring larger acreages than any of the uses mentioned so far are *camping grounds* and *hunting* and *fishing areas*. Both are found in state preserves, but separate camping areas are sought as well by private organizations such as the Fresh Air Fund mentioned earlier, Boy and Girl Scouts plus a wide variety of denominational and non-denominational welfare agencies located in New York City.

There are, of course, many, many less common uses which are either variations on those listed above or could be creative new ideas. A good, solid house, for instance, with a dozen acres of ground can become a *natural history museum* with outdoor exhibits. Some estates have become *arboretums*. A country place with cows, pigs, horses and some crops can become a *model farm* or an agricultural experiment facility for a college. An antique house and grounds can become a *restoration*. The Van Cortlandt house in Croton-on-Hudson is a good example. The house is not only a nearly perfect example of early Dutch-English architecture, but the restoration, founded by John D. Rockefeller, Jr., owns a good deal of the Croton River Marshes, protecting open space of inestimable importance.

PUBLIC BODY OR PRIVATE GROUP

In the world-that-ought-to-be, there is, for every offer of land (x), a recipient (y) whose public purpose is wholly suited to the inherent management requirements of the land, and wholly suitable, on form, to the landowner. Then $x+y =$ protected open space achieved with a minimum of effort and a maximum of gratification for the donor.

Someday this will be so. But not yet. There is case after case on record of land offers either being spurned or becoming so complex as to completely discourage the donor from completing the transfer. But many stick with it, in some cases for several years, seeing to it that the land will be properly and permanently cared for.

While each potential transfer of land to a unit of government or a non-profit group has its unique features, there are some generalizations that can be made on finding a suitable recipient for an offer of land for open space use.

Usually, national or regional conservation organizations such as Audubon Societies, The Nature Conservancy and others, who own land in the "sanctuary" category, prefer to have an endowment so that con-



Other uses for open space range from wildlife refuges...



...Hunting and fishing preserves...

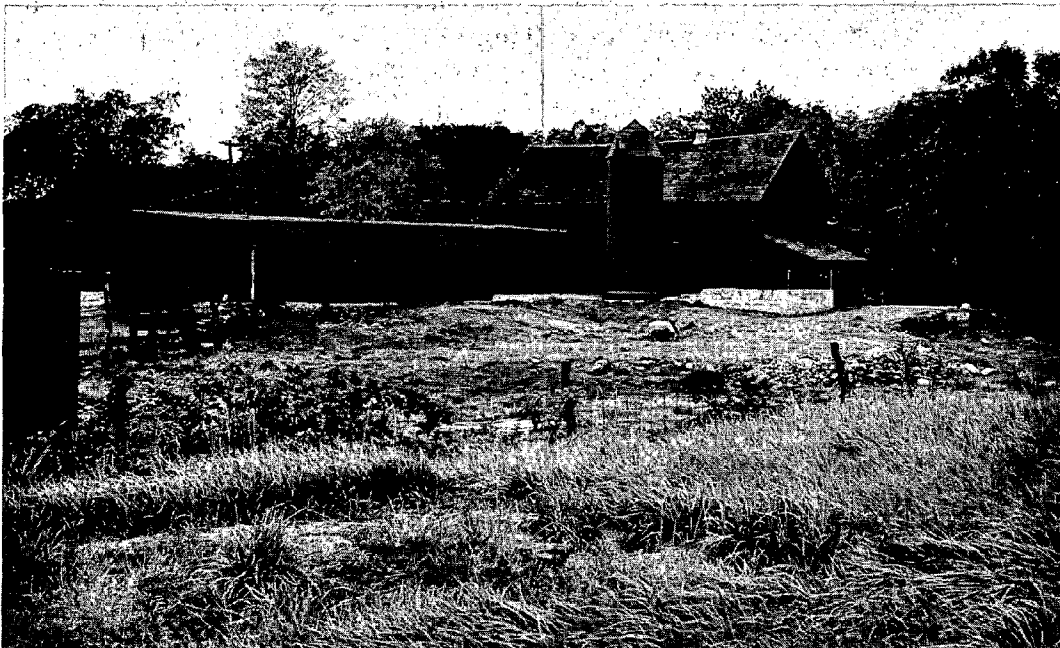
...to arboretums such as the Bayard Cutting in Islip, L.I.





A solid house can become a natural history museum...

...or a country place a model farm.





School natural areas are gaining the interest of administrators and curriculum specialists. The teacher here has even sparked the interest of the bus driver at extreme left.

tinuous care for the land can be provided. In spite of the substantial contribution such organizations as these make to the open space problem in general, their resources for land management are quite limited. These groups do make exceptions, of course; particularly The Nature Conservancy which has somewhat more flexibility. While standards are necessarily high, any offer of land with unusual wildlife or plant communities is of great interest to such organizations.

Private welfare agencies and scout groups are interested mainly in larger properties in the hundreds of acres. While many of them are concerned with open space and conservation, their primary task is in providing camping areas for youngsters or family groups. Some of these agencies accept no limitations on their right to sell property given them. Others are more conscious of their conservation role and reflect this consciousness in their policy. Only close investigation will reveal the difference in outlook.

Higher levels of government—state and federal—are interested in wildlife areas, as mentioned earlier, which need not be of any particular size. National and State parks and forests presume, of course, large acreages. National monuments of natural, historic, or geologic interest can be considerably smaller. New York's minimum park acquisition is

400 acres, unless the property is contiguous to existing State holdings.

Lower levels of government—counties, cities, towns, boroughs, villages and even school boards—can be excellent objects of land philanthropy, or not, depending on their policies and on the outlook of the officials themselves. They have a good capability for providing management services, even if a park department as such is nonexistent. The road crew of the smallest municipality can do most of the maintenance work on a piece of community-owned open space. At the same time, the lack of interest on the part of some elected officials in a proffered gift of land can be nothing less than infuriating.

In Connecticut an extension of town government—the Conservation Commissions—are always a good place to start. Connecticut towns are also pioneering the quasi-public local land trusts, which are often especially established as an *ad hoc* response to an offer of land. Land trusts have proven to be particularly useful where authorities are dragging their feet, or where lands straddle municipal or county boundaries.

In New Jersey, county and municipal government has to be relied on to a greater extent than in New York or Connecticut, since private, non-profit organizations cannot hold tax-exempt more than five acres per building. In the other two states of the region, there is no acreage limit for bona fide non-profit groups.

In most cases, the potential donor of land will probably find himself dealing either with non-profit groups such as The Nature Conservancy or the land trusts in Connecticut, or with county or municipal government. The non-profit groups need money to manage the land, or at least its equivalent in a dependable and stable cadre of civic volunteers who will do the management job for nothing. County or municipal government has a greater management capability over the long pull, but offers of land are or can be full of short-run frustrations. One presumption that is simply not true is that counties and municipalities are interested only in recreation parks. Some may be, but there are a great many sanctuaries and low intensity recreation areas in local government ownership in the region. And it is expected that municipal governments will become increasingly solicitous of land donations in this category as time goes by and open space needs become more apparent.

In any case, the land philanthropist would be well advised to let his lawyer, a responsible civic leader or an informed friend take his part in the initial offer of land to a potential recipient. Negotiations are sometimes stalled because either the recipient or the donor is too sensitive to be candid and lay his cards on the table. It is better to find out quickly whether there is a good match of “x+y” rather than to let misunderstandings develop. A John Alden, in this case, can speed up the process considerably.



This swampland is part of a ten acre gift of Mrs. Dudley Wadsworth which sparked the development of a \$1,000,000 Regional Nature Center in Westport, Conn. This donation plus an option on additional land was enough to inspire the formation of a local, non-profit group which raised the funds and planned facilities. The Mid-Fairfield Youth Museum and the associated Wadsworth Wildlife Sanctuary now have an annual operating budget many times greater than the original value of the land initially given.

DEED RESTRICTIONS AND WATCHDOGS

Most landowners who are inclined toward the donation of their land for open space use would like to insure that the recipients do not treat the gift as a negotiable asset. There isn't much inducement for land philanthropy if the philanthropist can't be assured that the general intentions of his gift have a reasonable chance of being carried out.

A suspicion of bad faith has always been lurking beneath the surface especially in respect to gifts of land to county and local government: not so much that they would sell it, but that they would convert it to a use inconsistent with the objectives of the philanthropist, such as a park taken over for a school site or a waste disposal plant.

The actual incidence of bad faith is a good deal less than what is implied by the vocal critics of municipal government; and one suspects

it is simply an extension of the folklore that all local officials are shady characters and there isn't a genuine public servant in the lot. News of municipal malfeasance is like news of an airplane crash: it is sensational and frightening, and for the moment one forgets the incredibly good record of safe miles logged.

But even one lapse—by either a municipality or a private organization—is probably too much; and, luckily, there are ways of minimizing the risk.

On the most elementary level, the deed itself can record the intention of the transfer, and certain restrictions as to the use of the property can be covenanted between the grantor and the grantee. An agreement might be made, for example, that the land is to be used for nature study and that no development will be undertaken that is inconsistent with this use. Some covenants can be quite specific, spelling out in detail agreements about land clearing, fencing, the management of any surface water and the like. The more specific a covenant is, the greater the chance that intentions will be upheld unless, of course, implementation would be so complicated, costly or unfeasible (in the event, let us say, of a change in use of surrounding property) that the grantee would have to make a case for vacating all of them. Certainly, a landowner's attorney should be given the responsibility of interpreting his client's intentions through an instrument that would be defensible over the long pull.

Such agreements as these can turn out to be merely formalities unless there is some provision for their enforcement. One way to accomplish this is to establish an interim owner who would have the capability of enforcing deed restrictions from an administrative standpoint, as well as legally.

For example, if a property were first given to an organization such as The Nature Conservancy, they (the Conservancy) could in turn re-transfer the land to a municipality (at the same closing session), and withhold a "right of reverter." This would provide that if the conditions or restrictions set forth in the deed were not honored, the property would automatically revert to its previous owner. It is important that the previous owner not be the landowner himself since this would weaken his ability to take income tax deductions. When it is a non-profit group such as the Conservancy, the donor not only establishes a clear-cut deduction, but has set up a watchdog with legal teeth: the power to enforce the intentions of his gift.

A less formal variation on this idea is simply to insert a clause which, in effect, assigns the right of reverter to a third party without the revertee first establishing actual ownership. Such a clause would state that if such and such conditions were not carried out, the title would auto-

matically be vested in the designated third party. The Nature Conservancy is written into many deeds in this fashion, and the deed to Mettler's Woods shows a long list of organizations designated serially so that little is left to chance in providing for permanent care of the woods as an irreplaceable natural heritage.

Whether the watchdog is established directly through interim ownership or takes on this function by a special provision in the deed, a "reverter clause," as it is commonly known in either case, is not always acceptable to a potential recipient.

Some private organizations understandably resist the inclusion of a reverter clause. They want the freedom to sell the property in the unhappy event that they might not be able to care for it properly in the future or if it no longer suited their purpose. Others are less concerned about this. In any case, policies are usually bendable if the recipient wants the land badly enough.

Likewise, some units of government will not take anything except an unrestricted title, stating that their public purpose, in the case of, say, a park department, is sufficiently clear to obviate the need for a reverter. An investigation into the present status of properties donated to them should prove them right or wrong in their assertions.

But just as often, public officials may be positively delighted to have restrictive clauses with reverters in the deed, for it binds the hands of their successors, forcing them into the public glare of condemnation proceedings if they want to change the use. No official is particularly anxious for a successor—particularly of the opposite political party—casually to undo what he has accomplished. And many non-profit groups welcome a reverter as a protection of their own interests. The trustees of Connecticut College were pleased to be able to point out to a firm which had offered an extravagant price for its natural area on Mamacoke Island that the land would revert to The Nature Conservancy the moment it was diverted to another purpose.

It should not be assumed, though, that provision for a reverter should always be insisted upon by the donor. For one thing, it can severely limit the range of potential recipients. Moreover, many have argued that reverters might in some cases frustrate the essential purposes of a charitable donation. For example, a municipally owned sanctuary might some day have its value as a wildlife area severely limited by nearby incursions of industrial or commercial land-use or perhaps superhighways. In such a case, the original owner might well have agreed that the town should sell it for a high commercial price and buy more suitable land elsewhere. If there were a reverter clause and if the deed otherwise made no provision for such a situation, the community could be forced into a dilemma not intended by the philanthropist.



A new park or sanctuary soon takes its place as a permanent fixture in the community. New stewards can maintain a legacy of nature.

While there should be no hesitation on the part of the landowner in exploring the subject of a reverter to enforce specific conditions or restrictions, this is not the only means by which he can protect his philanthropic purpose. By spelling out this purpose in the deed, by insisting on public dedication of the land, by making it clear that the new owners hold it in trust, or in short, by any method his legal counsellor advises to clarify his intentions for all time—then he is on sound ground. He has made a solid effort to see that his donation is going to remain as open space if not for perpetuity then at least for a good long time.

THE COMMUNITY RESPONSE

Any public action—land philanthropy included—usually gets a public response. There are always those who want to know “What’s in it for him?” Others complain about more property going off the tax rolls, little realizing that a pack of houses would have raised their taxes more. Because land philanthropy is a more visible form of charitable giving than the quiet transfer of securities, say, to one’s college, there will always be an element in the community making horrible noises.

But the land philanthropist also comes in for a good share of praise from civic leaders and editorial writers, for most of them realize that protected open space is a great community asset.

By and large, however, the hullabaloo quickly dies down, and even in the case of a memorial bearing the same name as the donor, the new park or sanctuary takes its place as a permanent fixture. The verbiage of praise or blame soon gives way to a more lasting kind of satisfaction to the donor and a more meaningful expression of gratefulness from the public, for it becomes *their* land, which they will enjoy... and protect as well.



Bulldozers usually run rampant, but by working with planning officials, consultants, landscape architects or others, a land seller can preserve segments of his property as undisturbed open space. Such a procedure needn't reduce his ability to get a top-of-the-market price for the land.

V

NEW DIRECTIONS IN DEVELOPMENT

Few landowners possess the rare blend of economic capability and philanthropic temperament required to produce donations of land. For the most part, open space in the New York Region is owned by people who have a financial stake in their land. Eventually they will make the often difficult decision to sell.

For many, the disposal of their land to the highest bidder will at best be a pretty dismal affair. Their reluctance to give up their acreage may include a deep regret that a landscape they love may soon be converted to an undistinguished housing development.

The trouble is, these owners seem to believe that their self-imposed responsibilities as stewards must be wholly abrogated the moment they put their land on the market. It is as if such an abrogation were a condition for selling at an attractive price.

The burden of this chapter is to show that "it ain't necessarily so." The hand and spirit of the landowner can remain with his land if he employs his sense of stewardship constructively in the process of transferring title.

A HOMELY EXAMPLE

Let's take the case of a man with a two acre houselot plus a need to come up with some more money to send his son to college. Fortunately his house is so situated that he can subdivide his property and sell off an acre, which might produce, with a little luck, say \$6,000.

At the same time the thought occurs to him that unless some restrictions are imposed on the sale he might wake up one morning to find an architectural horror being assembled some ten feet from his lot line—the legal minimum in his town. A prudent man, he sells his lot with conditions spelling out the setback, whether or not the house can be one or two stories, a minimum cubic footage or cost requirement, a landscaping agreement or any of a number of potential requirements that must be met by the buyer of the lot. Perhaps it is a little more complicated to sell the lot, but he doesn't run the risk of devaluating his own home in the process. His \$40,000 house devaluated 15% would completely wipe out any financial gain in the sale.

An analogous but less common practice, just as sensible and just as possible, would be the selling of an entire tract for development with



Most site plans don't do justice to the houses, the people in them or the former owner of the land. The sale of property doesn't have to be an abrogation of stewardship.

Stewardship and the profit motive come together in cluster planning. The view from this window will always remain since meadow and woods are protected open space in this Sayville, L.I. development. Lot sizes were reduced to achieve a usable piece of common open space.



some kind of arrangement to see that it would be developed properly. The beneficiaries would be the people who bought houses in the new subdivision, of course, but more broadly and perhaps more importantly the entire community would be benefited in exactly the same way as the man in the example. The real and aesthetic value of a community is not depreciated by creative housing development, but an unimaginative subdivision—the “ticky-tack” in a standard treeless grid—tends to pull down the surrounding area to its own hackneyed level.

THE RIGHTS OF A SELLER

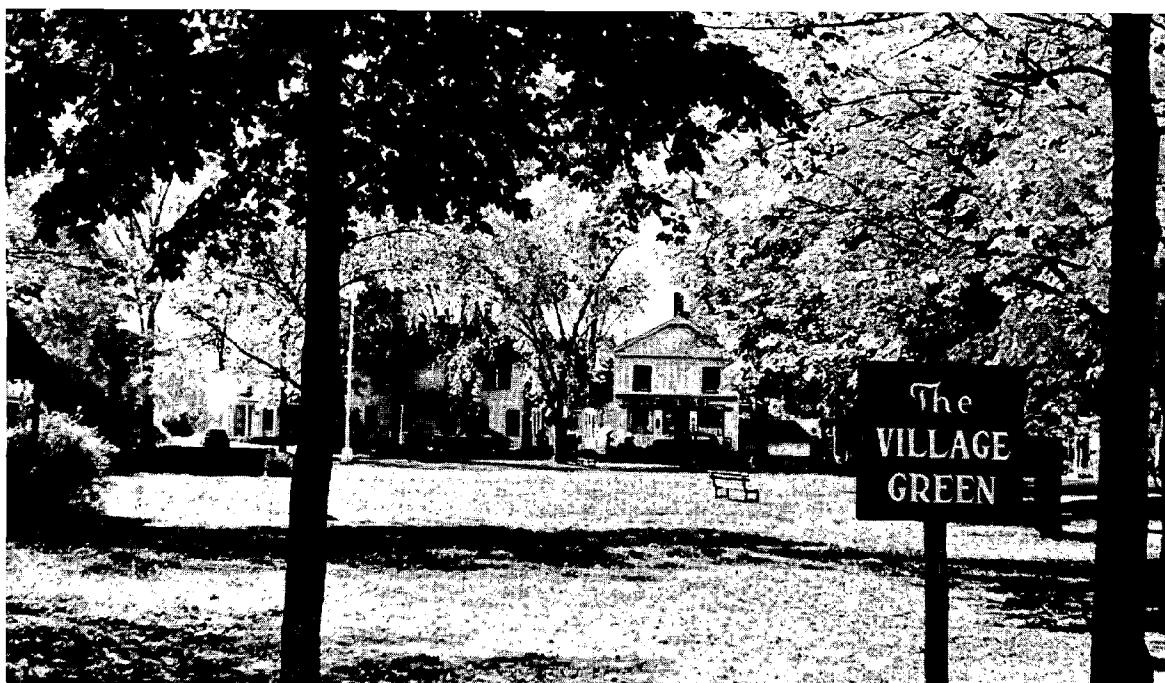
There are many ways that a seller of property can control the appearance and the quality of development on the property he is selling and he can do this without going into the development business himself. He can, for instance, withhold part of the property from the sale if there is a section of it—such as a pond, or stream or a fine stand of old trees—that should remain undeveloped, later to deed it over to a homeowners’ association, a suitable private organization, or the municipality. Severing a portion of the land for conservation or other open space purposes does not necessarily limit the profit potential of the property, while the later transfer of the open land under certain circumstances might possibly be adjudged a philanthropic gift for tax purposes.

Covenants involving site planning and architectural controls may also be imposed on the buyer as a condition of sale. Such covenants could be spelled out in the deed, or the seller could provide for his own approval of the plat and architectural plans proposed by the buyer prior to completing the transfer of title.

For an owner to impose restrictions and conditions on the sale of land to a developer doesn’t make the selling job any easier. Nevertheless, the seller has every right to take such an action and it is indeed surprising that so many owners, whose land may have been in the family for generations, sell out and without a single backward glance let the developer do with it what he wants.

Developers can either be enlightened or craven, like anybody else. Unfortunately, the demands of the marketplace force most of them into the position of having to “get in and get out—fast,” as one developer has put it. One could hardly expect a developer with his short-term interest to have as much appreciation for the land itself as the original owner. Under these conditions, open space and aesthetics are most likely to get the short end of the stick, and the ex-owner is often horrified at the results.

Developers claim, and with a good deal of justification, that they have no desire to slap together another “ticky-tack” subdivision. They are squeezed, they contend, by the irresistible force of the market and the unmovable wall of outmoded zoning regulations.



Leaving aside open space for amenity and recreation has its roots in Europe. The idea was transplanted to America in the form of New England village greens, malls and commons. Cluster planning operates on the same principle.

But all is not lost. There is now a very specific place where an owner's stewardship and a developer's profit motive can meet. It is called "cluster planning," the device used to preserve 40 acres of open space in the Village Green development discussed in Chapter III.

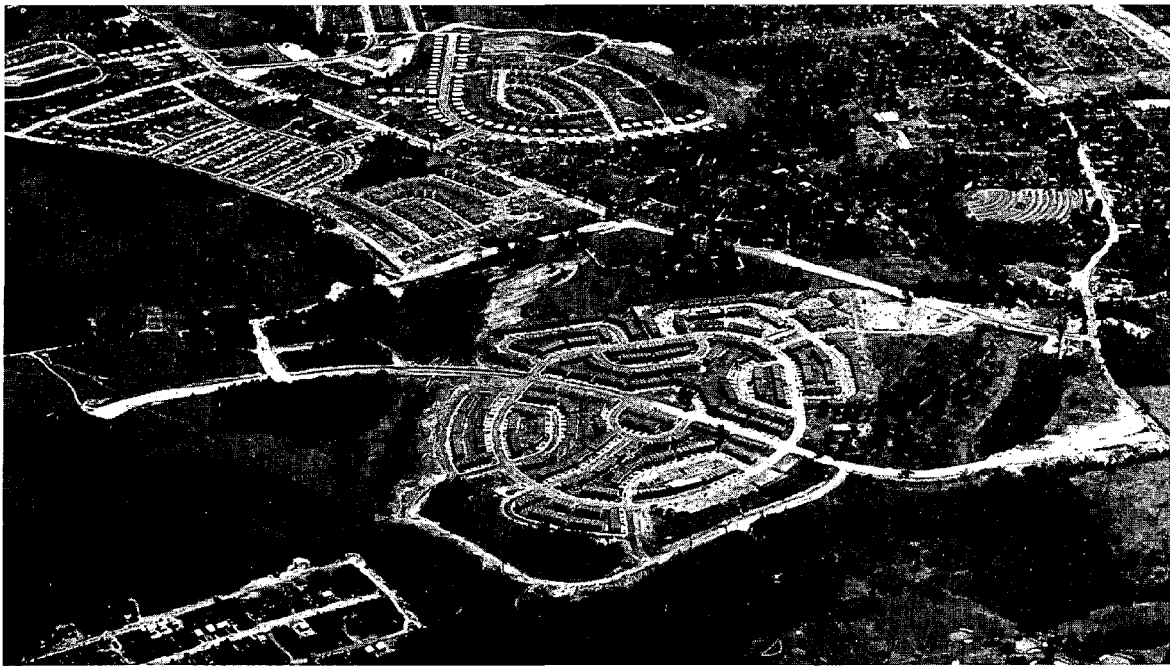
THE PRINCIPLES OF CLUSTER

Ninety-five percent—give or take a few points—of the remaining open land in the New York Metropolitan Region is zoned for single family residential use. The average density called for is about a half-acre per house. The actual zones run anywhere from one quarter of an acre up to four acres. There are a few cases of ten acre zones.

It doesn't take much imagination to see that the offspring of today's population are going to chew up an incredible amount of land in the process of establishing a home and family, and the urban countryside will be covered from one end to the other with an unrelieved web of housing developments.

When zoning laws first came into common use, the objective was to provide community amenity through the exclusion of inconsistent or unattractive land uses. In those days, most people assumed, by and large, that houses would be built one at a time. Outlying communities believed (and many still persist in this) that large lot zoning would discourage all those except the very nicest people who would build the very nicest custom built houses.

What the region is experiencing now is nothing less than a large-lot



A cluster plan from the air. Morrell Park in Philadelphia has preserved wooded stream valleys which provide a continuous green space network for residents.

zoning “backlash.” One and two acre zone subdivisions are commonplace. A half-acre zone wouldn’t drive the most timid developer away.

The net effect is the prospect of a nearly total loss of significant community open space, of single family houses costing a whole lot more than they ought to, and being uglier than they have any right to be.

As a result a counter trend is setting in: not necessarily involving a change in the housing densities called for in the local zoning laws, but providing for a better arrangement of dwelling units on a given tract of land—an arrangement that can produce more attractive neighborhoods, with a great deal more meaningful open space. Unlike earlier thinking, this new trend takes into account the likelihood that most of the housing built from here on in will be on a development basis, as opposed to one-at-a-time custom construction.

This counter trend, cluster planning, stems from the traditional European idea of clustering houses around a common green or square. The idea was transplanted by our forebears and shows up in the attractive commons in many small New England towns.

With traditional zoning laws, a 100 acre tract in a one-acre zone might net out to 75 houses, several miles of streets and a massive destruction of most all the natural features. With a cluster site plan, the 75 house lots could be reduced in size and grouped together so that the developed land including streets would consume only 50% of the site, and the wooded copses, bosky dells, brooksides or whatever attractive features the land might possess would be preserved. The amount of common open space created by clustering depends on the degree to which

the house lot sizes are lowered: the smaller the lot size, the greater the percentage of open space, provided the zoning density is not changed.

With cluster development everybody wins. The owner who participates in creating a cluster on his land is gratified that natural features and open space are preserved and without any sacrifice, perhaps even a gain, in the selling price. The builder likes it because he saves money on site development, laying of streets, sewers and the like. Not only that, the houses sell faster. Home-buyers are pleased because theirs is a pleasant and attractive subdivision—with open space, recreation areas, and a site plan that is a great deal more interesting than the average. The community leadership should be pleased because open space has been preserved, the subdivision has not defaced the neighborhood, and a recreation area has been established which will serve the new residents without overtaxing existing community facilities.

What could be better? Unfortunately there are a couple of hitches. As the Hillsborough case in Chapter III pointed out, clustering can be too successful. A community may be afraid that a change in zoning laws will encourage builders to descend on them like a plague of locusts. Another is that when a developer proposes clustering, the community's back begins to go up. Long and bitter experience has suggested to them that anything that might be good for the builder must—by natural law—be bad for the community. Also, some builders have made the error of insisting on squeezing a few more units in their cluster plan than they would have been able to get under the regular zoning law. This tends to prejudice the planning board as well as the whole community against both the builder and the entire idea of cluster planning.

Even with these few sour apples, cluster planning holds out such hope for open space, the preservation of natural features, and the creation of communities which are attractive instead of drab, that it is appropriate for the landowner to participate in this trend as an exercise of his stewardship.

THE LAND-SELLER'S ROLE

Though the construction of a cluster development from start to finish might be a creative and exciting experience for a few landowners with the time and inclination, the majority are probably uninterested in the enterprise of putting up houses. So long as they own the land, however, they have the power to encourage clustering by a number of means.

One of the most effective ways of producing open space and an attractive cluster plan would be for the owner to work with an independent site planner or landscape architect in order to lay out the subdivision plat to his own liking. He could then file the plat in accordance with the regulations of his municipality. When he sells his property to

a developer, he sells a package deal: the tract plus the approved plat.

It is probably possible for the landowner to go so far as to file with his plat a formal arrangement for the establishment of a homeowners' association which would eventually own and maintain the common property, exert architectural controls within the development and have the power to support the preservation of the neighborhood amenities. The establishment of such a homeowners' association prior to site development and sale of lots has proven to have a number of legal and practical advantages.

Landowners should be under no illusions about the difficulty of the task of preparing and filing a cluster site plan. The cost of making the surveys plus the fee to the designer could run into the thousands of dollars—how many depending on the scope of the job. Additionally, there may be the added chore of persuading local municipal boards to adopt a cluster zoning ordinance.

Nevertheless, any developer would be more than happy to pay a premium for such a package since he avoids all the costs and lost time for site planning and site approval. It need hardly be mentioned that the landowner as a respected member of his community is going to have an easier time getting the legislation needed for plat approval than a developer who may be—or appear to be—less interested in the long range welfare of the community.

For those less inclined to go through such an arduous process, there remains the possibility of selling the land conditioned on an approval of the site plan, or more realistically, of working closely with the planners who are employed by the developer. In return, an owner could agree to support the developer when the plat comes up for approval.

Another approach might involve, as a first step, discussions with the planning board and the professional planning consultant retained by the municipality. They may have some good ideas on development and the chances are that they would be as interested in the preservation of open space and amenity as the owner. Using this method, it might be arranged that the municipality would take an easement on the open space or fee title (the owner can take an income tax deduction on whatever land value he surrenders) and agree to give the developer, whoever he may be, "lot credits" so that he could construct the same number of houses that would have been possible had he bought the entire tract outright.

There are any number of variations or departures from these approaches. Common to all of them is the result: the owner has indeed acted upon his feelings toward the land, but at the same time has not reduced his potential for selling at a price pretty close to the top of the market.



Many landowners would like to keep their land intact and pass it along to their children. An "open space" easement is one device that could help make this possible in the face of rising property taxes.

VI

THE MIDDLE GROUND

Open Space Easements

Many owners of large acreages did not purchase their land in order to sell it or give it away, but to *live* on it and, if their luck holds, pass it on intact for the next generation.

There is no doubt but that the desire to keep land intact for its own sake, as well as for use and enjoyment by the owner and his children, is one of the highest forms of land stewardship. Were it not for such owners, the open land in the metropolitan countryside would certainly bear more of the marks of the speculator and the premature land developer than it does.

To continue to hold land open, as a private undertaking, is getting to be a tougher and tougher stewardship assignment in the face of rising property taxes—the money so desperately needed by growing communities with quantities of children to educate. But it isn't a matter of soaking the rich or the propertied and, though the assessor may have various attitudes of his own, his range of choice in assessment is basically quite narrow. In the case of estate acreage, the country place, or the farm, the assessor is (or soon will be) taxing more than the land itself—he is taxing its development potential.

Whether he likes it or not, the assessor operates under the strictures of a constitutional or statutory equal tax provision, and if a landowner—no matter what his intentions—can get a subdivision price for his land, he is probably paying a subdivision tax. If not now, then very, very soon.

This situation is mitigated to some extent by assessors who make an effort to lean over backward in the landowner's favor, perhaps realizing the inequity of taxes collected as opposed to the limited services required in the case of a large holding. While differential taxation is generally illegal, New Jersey allows differential rates for some farmers and in Connecticut, farmland, forest land, and some open space may qualify for a lower assessment. But these laws, while interesting enough to large landowners, don't really apply to very many of the private open land holdings within the metropolitan complex. Also, such statutes are under critical legal fire since they too often benefit the speculator more than the bona fide private steward.

A QUID PRO QUO

Much of the landowner's property tax problem is created by premature land speculation and development in the metropolitan countryside. The loss of open space is the result of the same thing. Both the landowner's tax problem and the community's open space problem may be abated by the use of a conservation or "open space" easement, which, in effect, strips away the aspect of ownership of land which makes the taxes go up in the first place: its potential for development—a potential also destructive of open space.

What is produced by an open space easement, which is basically a negative right in land, is a very simple *quid pro quo*. If the landowner, whose parcel ought to remain open, gives a binding guarantee not to develop the land, the assessor must not assess it as though it could be developed. This is the way equal tax provisions can work in favor of the large landowner.

An open space easement need give no rights of public access to a municipality or any other organization or individual—the property is still private and the attributes of ownership intact, save one: the right to subdivide or otherwise to diminish its value as open space.

The basic condition which makes such an arrangement succeed is that an unequivocal guarantee that the land will not be developed can provide a clear public benefit as well as new evaluative criteria for the assessor.

William H. Whyte, the well-known writer and a foremost authority on open space easements has emphasized that, for the landowner, the critical point in the entire concept of an open space or conservation easement is that it be binding (in *Securing Open Space for Urban America: Conservation Easements*, see Appendix). As he puts it, "If a property isn't legally available for subdivision, it isn't comparable to properties that are. The very constitutional provision that assessors have followed to raise valuations now becomes the landowners shield."

Whyte further points out that "if the assessor disregards the easement and values the land on its market value as subdivision land, the landowner has clear legal redress; since he cannot market it as subdivision land, the going rate for such land is patently not its fair market value. This is why the easement must be binding. Many landowners I have talked to would love to have it both ways; that is, have the easement apply and save them from higher taxes—but always with an easy loophole in case they change their minds." Basically he concludes, an open space easement "must be a deed in perpetuity, and rather than soft-pedal this fact, it should not only be made plain to landowners but used as a selling point. The perpetuity feature is to their advantage; without it, they have no real tax protection."



Easements can be used to protect marshes and other wet areas for conservation or flood control. While a public purpose is served, public access need not be a part of the easement.

This is as clear a statement of how the *quid pro quo* works as there is. But before the landowner can decide whether the conveyance of an open space easement is a suitable device for his particular case, he must first examine both sides of the *quid pro quo* equation in a little more detail.

A PUBLIC BENEFIT: THE "QUID"

What is so new and so hopeful about the idea of open space easements is that everyone is beginning to agree that open space does not have to be in public use to serve a public purpose.

In the municipal context this means that open space easements could be used to protect a water supply, or protect wet areas from residential encroachment which could reduce their value for flood control. Easements could preserve a wildlife habitat area, and they could be used simply to preserve the open aspect of a community for purely aesthetic reasons. Any or all of these are public purposes that can be served by an open space easement. None of them requires public access. (There is nothing to prohibit public access under an easement arrange-



Easily developable properties such as these pitch-pine and oak covered flatlands of Long Island, are often taxed on their value to a developer, not on present use. Open space easements strip away development value which cannot be taxed if it does not exist.

ment, however. For example, a bridle path might better be protected by easement than by any other device. But the granting of positive rights is more apt to be a philanthropic gesture than a quid pro quo arrangement not to develop land. Conveyance of positive easements should be considered a variation on the philanthropic gift of fee title as treated in Chapter IV.)

That conservation and the preservation of community amenity are public benefits that do not necessarily require public access is already recognized legally and by professional land-use planners. It is beginning to be recognized by political and civic leadership as well. All three States have provisions for public bodies to hold open space easements. New York has stepped out a little farther in providing specific enabling legislation for the purpose of encouraging municipalities to seek such easements.

There will be, undoubtedly, increasing use of the easement device by the region's municipal governments. By and large it will be as a result of a planning study to determine which open land areas should remain open. A willy-nilly easement acquisition program on the part of a municipality might well lack a clearly defined and provable public purpose. Nevertheless, it is probably true that the initiation of a specific easement agreement will not come from the municipal official, but from the landowner himself. This was the case with the McKay property dis-



Experts predict that open space easements will become more and more frequent as town officials begin to realize they can't zone out development. Large landowners can supply open space if property tax levels encourage it. The quid pro quo of the open space easement permits this.

cussed in Chapter III, and will probably have to be the case with others, at least until municipalities start attacking their open space problems in a positive and systematic way.

In offering an easement to a municipality, the landowner should be prepared to show the public purpose the easement will provide. Certainly local government is under no compulsion to accept such an easement, indeed there may be some hesitation until the novelty wears off. Also, it might be prudent for the landowner to feel out the local assessor on his attitudes concerning the value of the easement. The courts are always there to adjudicate a difference of opinion on the question of assessment, but this is the hard way, and not always necessary.

But most importantly, the provisions of the easement should be the result of careful legal architecture, listing in detail what is being given up and what is retained. There is no point in asking a court to guess what the original intentions were if the easement is challenged by a subsequent owner.

ASSESSMENT: THE "QUO"

While there is no question that an open space easement provided to a municipality can be sufficiently binding, sufficiently "in perpetuity" to rate a re-evaluation of the land under easement by the assessor, there is no telling where the new assessment figure will land. Merely to say that the value of the land is reduced by the value of the development rights surrendered is no help at all. It is difficult enough for the landowner and the assessor to agree in any case, and the process of deciding what fraction of the value of the land is due to development pressure in the area doesn't make agreement any easier.

To an assessor, value just doesn't disappear, so it is well to remember that some of the tax loss liability might be assigned to adjoining real estate; it becomes more valuable by bordering on protected open space for much the same reasons that real estate bordering golf courses generally receives a higher assessment, even though the owners may not be members of the club.

Another part of the tax liability has to be assigned to the municipality as a whole. The entire town benefits from protected open space. Indeed it can be proven that the alternative, a housing development on the same land, would increase taxes for the community by an amount a good deal larger than the amount removed from the tax rolls because of the easement.

One further consideration that might help—eventually—to establish a value on the rights surrendered is the amount of income tax deduction the grantor of the easement decided to take. While many might strike up an open space easement deal for their own benefit, and hardly

feel like philanthropists, it is nevertheless true that as donors of a right in land to a public body they have undertaken a charitable act. What the IRS (their ruling on easements can be found in the Appendix) decides to accept as a reasonable figure for a tax deduction can have a good deal of weight, with the assessor on grievance day. (This might work the other way around too!)

Although an effort to grant an open space easement to a local or county government may sound like a ground-breaking experience, the landowner will not be without friends. Planners, conservationists, recreation people and others with an interest in the landscape have seized on the easement device as the most exciting concept in a long time—a concept that can go a long way in contributing to a solution to urban open space problems. Politicians are learning too that they can't zone subdivisions out of their communities, nor can they afford to buy up half the town in order to preserve its open character. Open space easements are a way out for a lot of different people besides the owner of land who would like to keep it open but is getting taxed away from his resolve.

DECISION FOR STEWARDSHIP

Stewardship is not a point of view but an action. And this book has attempted to cover a sufficient range of ideas to provide a background for decision.

It is important, however, for the landowner to wend a prudent way through the legal maze inevitably associated with the various options open to him. A prospective donor of either fee title or easement needs good legal advice in the laws of conveyancing, tax laws (local, state and federal), with particular emphasis on charitable exemption and deduction possibilities, and where pertinent, laws of decedent's estates and wills. For the seller of land, if not for all owners, legal expertise should include municipal law as well.

This may sound like a tall order—and it probably is. But there are many competent and experienced civic and professional groups who can consult with the owner or his attorney on matters relating to a philanthropic transfer or the preservation of open space within land to be developed. Indeed landowners should avail themselves of the many recognized experts and professionals who will give of their time freely and unstintingly to help preserve a decent landscape in this region.

APPENDIX

A. ORGANIZATIONS

Many governmental and non-profit organizations can help the landowner plan the use of open space or act as recipient for the conveyance of the title so that the land may be permanently preserved. The landowner should bear in mind, as Chapter IV pointed out, that different types of land have different potential open space uses, which in turn may suggest certain types of public or quasi-public ownership. The listing here provides brief comments on the needs and interests of various organizations for the landowner's guidance.

While this catalogue may appear comprehensive, it is by no means complete. Indeed, it neglects, for practical reasons, the thousands of local organizations which in more cases than not should

get top priority from the landowner. Municipal governments, in general, have a good capability for continuous and stable maintenance. Where local governmental interest is lacking there are usually non-profit civic groups to fill the breach: an Audubon chapter, a museum, an historical society, a garden club or a land trust. Further, the landowner should not overlook local school districts as potential recipients of open land for educational use, or colleges, universities, and private schools in his area. But if the landowner has special interests which cannot be served by local organizations, or if his property has unique features calling for management by a larger or more specialized type of agency, the information below may be of help.

1. GOVERNMENTAL AGENCIES INTERESTED IN LAND

a. FEDERAL AGENCIES

UNITED STATES DEPARTMENT OF THE INTERIOR

Bureau of Outdoor Recreation
Northeast Regional Office
U.S. Court House
9th and Chestnut Streets
Philadelphia, Pa. 19107
215 WA 3-2400

John L. Sullivan
Regional Director

The Bureau is charged with keeping an up-to-date inventory of recreation resources, and assisting government and private interests in planning to meet recreation needs. It may accept and use donations of land for outdoor recreation purposes.

National Park Service
Northeast Regional Office
143 South Third Street
Philadelphia, Pa. 19106
215 MA 7-6000

Ronald Lee
Regional Director

The National Park Service administers national parks, national monuments, and national recreation areas. It is interested chiefly in large areas serving several states or a whole region, but there is an increasing interest in small sites within metropolitan areas. National monuments of significant scenic, historic or biologic interest may be quite small.

U.S. Fish and Wildlife Service
Bureau of Sport Fisheries and Wildlife
Northeast Regional Office
59 Temple Place
Boston, Massachusetts 02111
617-223-2961

Richard E. Griffith
Regional Director

The Service is responsible for establishing wildlife refuges for the protection of migratory birds and endangered species of mammals. Typically its areas are large, but in the Northeast, it has acquired by gift a number of small but valuable areas of less than 100 acres.

b. STATE AGENCIES

CONNECTICUT

Board of Fisheries and Game
State Office Building
Hartford, Connecticut 06106
203-527-6341 Ext. 2369

George C. Hancock
Chief, Land Acquisition Division

Interest in tracts of all sizes for wildlife areas. Acceptability of individual properties depends upon intrinsic value, location, type and size.

Park and Forest Commission
165 Capitol Avenue
Hartford, Connecticut 06115
203-527-6341

Donald C. Mathews
Director

Lands for forests and parks should preferably be in excess of 200 acres and possess definite attributes for such purposes.

NEW JERSEY

DEPARTMENT OF CONSERVATION AND ECONOMIC DEVELOPMENT

Division of Resource Development

P. O. Box 1889
Trenton, New Jersey 08625
609-292-2733

Kenneth H. Creveling
Director

Within this Division a Bureau of Parks and Recreation is responsible for the administration of all State forests, parks, recreation areas, natural areas and historic sites. Consequently, properties of almost any size are of interest. Acceptance and subsequent use would depend on intrinsic value and size. Generally, lands of 100 acres and more are preferred for parks and forests, unless they can be joined to larger properties.

Division of Fish and Game
P. O. Box 1809
Trenton, New Jersey 08625
609-292-2965

Lester G. MacNamara
Director

The Division is interested in refuge lands, lands of high ecologic value, and public hunting and fishing areas. Large tracts are preferred since these can be administered more economically and offer a greater variety of recreational activity than small ones.

Green Acres Land Acquisition Program
P. O. Box 1390
Trenton, New Jersey 08625
609-292-2432

Arlo Brown, Jr.
Director

This Division was established to coordinate the acquisition of land by monies made available under the Green Acres Bond Issue, under criteria set forth by the State Department of Planning. General inquiries about the acceptability of a piece of land may be directed to his office.

NEW YORK

NEW YORK STATE CONSERVATION DEPARTMENT

Division of Parks

(For Nassau-Suffolk)
Long Island State Park Commission
Belmont Lake State Park
Babylon, Long Island, N.Y.
516 MO 9-1000

S. M. Shapiro
General Manager

(For Orange, Rockland and Bergen)
Palisades Interstate Park Commission
Administration Building
Bear Mountain, New York 10911
914 ST 6-2701

A. K. Morgan
General Manager
(For Westchester, Putnam and Dutchess)

Taconic State Park Commission
Staatsburg, New York 12580
914 889-2281

Harold J. Dyer
Regional Park Manager

The policy of the State Council of Parks is to acquire tracts of land of at least 300 to 400 acres. However, strategically located smaller tracts adjacent to existing parks are of particular interest. Small isolated parcels cannot be efficiently managed or used by the State.

Division of Fish and Game
Conservation Department Building
State Campus
Albany, New York 12226
518-457-5690

Dr. E. L. Cheatum
Asst. Commissioner for Fish and Game

The division acquires and manages wildlife and waterfowl areas. It is particularly interested in wetlands along the shores of Long Island Sound, and the Hudson River.

Division of Lands and Forests
Conservation Department Building
State Campus
Albany, New York 12226
518-457-3740

William D. Mulholland
Assistant Commissioner for Lands and Forests

The division accepts lands to be kept forever in their wild and natural state. It can accept easements or covenants in such land. There are no maximum or minimum sizes, but small tracts should be within or adjacent to existing holdings.

c. COUNTY AGENCIES

Most counties within the region have park departments which have accepted gifts of land for the preservation of nature and for recreation. In some counties the department of parks is primarily an operational unit, and the investigation of the suitability of lands for park purposes may best be carried on with the department of planning. In most cases, the two departments work closely on all questions of land acquisition.

BERGEN COUNTY

Planning Board
29 Linden Street
Hackensack, New Jersey
201 HU 8-4200

George H. Dieckmann
Planning Director

Park Commission
County Administration Building
Hackensack, New Jersey
201-342-2200

James A. McFaul
Executive Director

DUTCHESS COUNTY

Planning Board
150 Main Street
Poughkeepsie, New York
914-471-2522
Henry H. J. Heissenbuttel
Director

ESSEX COUNTY

Department of Planning
900 Bloomfield Avenue
Verona, New Jersey
201-642-7800

Arthur J. Bray
Planning Officer

Park Commission
115 Clifton Avenue
Newark, New Jersey
201-482-6400

Everett M. Scherer
President
James W. Taylor
Secretary-Director

FAIRFIELD

There are no county governments in Connecticut. However, regional agencies have been established which in some ways perform functions in planning and acquisition of open space similar to County agencies in New York and New Jersey. In Fairfield, they are:

The Greater Bridgeport Regional Planning Agency
Trumbull Professional Building—Room 301
White Plains Road
Trumbull, Connecticut
203 AM 8-0014
Hung C. Chung
Planning Director

Southwestern Regional Planning Agency
Executive House on Green
83 East Avenue
Norwalk, Connecticut
203-866-5543
Nils Fredericksen
Director

MIDDLESEX COUNTY

Planning Board
97 Bayard Street
New Brunswick, New Jersey
201 CH 6-0400
Douglas S. Powell
Planning Director

Park Commission
County Record Building
New Brunswick, New Jersey
201-247-2567
Thomas H. Lee
Chairman

MONMOUTH COUNTY

Planning Board
Hall of Records Annex
Court Street
Freehold, New Jersey
201 HO 2-1940
Charles M. Pike
Planning Director

The Board of Recreation Commission
Hall of Records Annex
Court Street
Freehold, New Jersey
201 HO 2-1940
Walter Schoellner
Secretary
James J. Trancer
Parks Representative
Monmouth County Planning Board

MORRIS COUNTY

Planning Board
Court House
Morristown, New Jersey
201 JE 9-4300
Dudley H. Woodbridge
Principal Area Planner

Park Commission
Court House
Morristown, New Jersey
201 JE 9-4300
Russell Myers
Director

NASSAU COUNTY

Planning Commission
Executive Building
Mineola, New York
516 PI 2-3000
Dr. Charles Stonier
Director
Arthur H. Kunz
Chief Planner

Department of Public Works
Executive Building
Mineola, New York
516 PI 2-3000
Robert Gamble
Deputy Commissioner for Parks and Recreation

NASSAU-SUFFOLK

The Nassau-Suffolk Planning Board has been established to deal with the problems of land use planning and economic development shared by the two Long Island Counties.

Regional Planning Board
Veterans' Memorial Highway
Hauppauge, New York
516-724-1919

Lee E. Koppelman
Executive Director

ORANGE COUNTY

Planning Board
County Building
Goshen, New York
914-294-5151

Carl J. Mays
Planning Director
Department of Parks
Box 595
Monroe, New York
914-294-5151

Austin C. Palmer
Director of Parks

PASSAIC COUNTY

Planning Board
County Service Building
Paterson, New Jersey
201 AR 8-5000

Louis H. Budd, Jr.
Director of Planning

Park Commission
Lambert Castle
Paterson, New Jersey
201-742-6373

John Crowley
Executive Director

PUTNAM COUNTY

Planning Board
County Building
Carmel, New York
914 CA 5-3641

Donald McNally
Chairman

RICHMOND COUNTY

New York City Planning Commission
2 Lafayette Street
New York, New York
212-566-8474

William F. R. Ballard
Chairman

Department of Parks
Central Park
New York, New York
212 RE 4-1000

Newbold Morris
Commissioner

ROCKLAND COUNTY

Planning Board
New Hempstead Road
New City, New York
914 NE 4-4911

Aaron D. Fried
Planning Director

SOMERSET COUNTY

Planning Board
County Administration Building
Somerville, New Jersey
201 RA 5-4700

William E. Roach, Jr.
Planning Director

Park Commission
Box 821
Somerville, New Jersey
201-722-1200

William H. Cunningham, Sr.
Director of Park Commission

SUFFOLK COUNTY

Department of Planning
Veterans' Memorial Highway
Hauppauge, New York
516 AN 5-0700

Thomas Thorsen
Executive Director

Park Department
Veterans' Memorial Highway
Hauppauge, New York
516 AN 5-0700

Thomas Thorsen
Commissioner

UNION COUNTY

Planning Board
County Court House
Elizabeth, New Jersey
201-353-5000

Harry Maslow
Planning Director

Park Commission
Warinanko Park
P. O. Box 275
Elizabeth, New Jersey
201 EL 2-8431

Rudolf Krestan
Superintendent and Secretary

WESTCHESTER COUNTY

Department of Planning
910 County Office Building
White Plains, New York
914 WH 9-1300

S. J. Schulman
Commissioner

Park Commission
910 County Office Building
White Plains, New York
914 WH 9-1300

Charles E. Pound
Commissioner

PRIVATE ORGANIZATIONS INTERESTED IN LAND

Boys' Clubs of America
771 First Avenue
New York, New York 10017
212 MU 4-4400

David F. Wynn
Assistant Director
Program Services

Each Boys' Club in the New York region is autonomous, and conducts its own program of recreation and citizen training. Property may be needed for headquarters, or for recreation and camping. The National headquarters will direct an inquiry from a landowner to one of the three regional offices in the area, which in turn will inform a Boy's Club or Clubs known to be looking for land or buildings.

Boy Scouts of America
New Brunswick, New Jersey 08903
201 CH 9-6000

Russell A. Turner
National Director
Camping and Conservation Services

The Boy Scouts are in constant need for land suitable for scouting purposes by troops, councils and regions. Local Troop areas need not be large, but should be somewhat isolated. Council and Regional camping areas should be 300 to 400 acres if the surrounding land is subject to development, or 200 acres if contiguous to public or corporate holdings. Definite requirements for potable and recreation water, slope, character of terrain, and surrounding land use. All inquiries about land are processed at the National Headquarters before being referred to Regional Offices or local Troops.

Brooklyn Botanic Garden
1000 Washington Avenue
Brooklyn, New York
212 MA 2-4433

Dr. George S. Avery
Director

Wherever there is land that ought to be preserved in an open condition, the Brooklyn Botanic Garden is anxious to explore with the owner the possibility of establishing a botanic garden, arboretum or research area. The availability of funds to underwrite part of developmental and program costs will be a factor, but by no means an exclusive one.

Camp Fire Girls, Incorporated
65 Worth Street
New York, New York
212 WA 5-1980

Dr. Anne Freidus
Regional Director

The Camp Fire Girls are always on the lookout for lands suitable for camping and day recreation. Inquiries to the regional office will be referred to the local Camp Fire Girls organization most likely to be interested.

Children's Aid Society
105 East 22nd Street

New York, New York 10010
212 GR 5-3640

Daniel Green
Executive Director

Lands are needed for the extensive day camping program conducted by the nine branch organizations associated with the Society. Property also is needed for housing children for a period of adjustment prior to going to foster homes. The Society leases some of its lands to other welfare agencies for day camping. The Executive Director is familiar with the needs of each of the agencies, and should be contacted directly.

Encampment for Citizenship
2 West 64th Street
New York, New York 10023
212 SU 7-2714

Douglas Kelley
Executive Director

The Encampment brings together for a six week summer camp program young people of college age from all over the world and from every region of the United States. It has a similar program for high school students. The objective: to stimulate a broader, more sympathetic understanding of social, political and human problems on the part of young adults from diverse origins and backgrounds. Donations of property would enable the Encampment to expand these programs.

Federation of Jewish Philanthropies
130 East 59th Street
New York, New York 10022
212 PL 1-1000

Dr. Maurice B. Hexter
Executive Vice President

Various social welfare agencies associated with the Federation, including the YM and YWHA's, are interested in land and buildings for day and summer camping, homes for the aged, children's homes, and community centers. Since the Federation takes title to all properties used by its agencies, landowners should deal directly with the Executive Vice President.

Federation of Protestant Welfare Agencies
281 Park Avenue South
New York, New York 10010
212 SP 7-4800

Frank Gatland
Assistant Executive

Land and buildings are needed by agencies belonging to the Federation for homes for the aged, children's homes, and camps for youth and family groups. The Federation will direct inquiries to one or more agencies known to be interested in land.

Girl Scouts of America
Region I Branch Office
(for Connecticut)
330 Stewart Street
Boston, Massachusetts
617-426-8735

Miss Gertrude McGill
Regional Director

Region II Branch Office
(for New York and New Jersey)
801 Second Avenue
New York, New York 10017
212 MU 6-3524

Miss Helen A. Drake
Regional Director

Interested in any land suitable for outdoor camping programs. A day camp with minimum shelter and water could require only 10-20 acres. Overnight troop camping is also possible on small areas. For extended use by large groups, the minimum size would be 100 acres or so. Inquiries to the Regional Headquarters will be forwarded to the Council operating where the land is located. Local Councils are autonomous, and can then deal directly with the landowner.

National Audubon Society
1130 Fifth Avenue
New York, New York 10028
212 EN 9-2100

Carl W. Buchheister
President

The Society operates educational programs for school children and youth groups, and summer conservation camps for teachers. It can take title to land suitable for sanctuary or nature education purposes. An endowment is preferred. The Nature Centers Division provides comprehensive advisory services to those who wish to establish Nature Centers. Inquiries should be sent directly to the Society's headquarters.

National Recreation Association
8 West 8th Street
New York, New York 10011
212 GR 5-7100

Joseph Prendergast
Executive Director

NRA does not take title to land, but can provide invaluable field services in recommending suitable usage.

National Trust for Historic Preservation
815 17th Street N.W.
Washington, D.C. 20006
202 EX 3-3664

Robert R. Garvey, Jr.
Executive Director

The landowner who has a building or a site of historic or architectural significance, and the capacity and inclination for philanthropy, should get in touch with the National Trust. This private organization, chartered by Congress, now cares for many precious, irreplaceable landmarks. An endowment is generally essential to provide for upkeep.

Natural Area Council
205 East 42nd Street
New York, New York 10017
212 MU 6-0342

Richard H. Pough
President

The Natural Area Council over many years has developed a reputation for putting the philanthropic landowner in touch with the agency or organization best fitted to receive and manage land and guiding him in obtaining the maximum tax advantage from doing so. It does not itself take title to any land.

Natural Science for Youth Foundation
5 Big Pines Road
Westport, Connecticut
203-227-5848

John Ripley Forbes
President

The Foundation specializes in the establishment of local and regional nature museums and conservation education centers, through the design of facilities, assistance in fund raising, and operation of the facility.

The Nature Conservancy
1522 K Street, N.W.
Washington, D.C. 20005
202-223-4710

Dr. Walter Boardman
Executive Director

Long Island Chapter

John T. Ricks
Chairman

East Gate Road
Lloyd Harbor, Huntington,
Long Island, New York
516 MY 2-7505

The Conservancy can accept fee title to land, or accept an interest in land. It can also serve as a third party in a reverter clause whereby it will take title to land when the purposes of the donor cannot be fulfilled by the original recipient. It is interested in all types of open land, but with emphasis on relatively undisturbed tracts for scientific and educational use.

New Jersey Audubon Society
790 Ewing Avenue
Franklin Lakes, New Jersey
201 TWI-1211

Frank W. McLaughlin
Executive Director

The Society is an independent conservation organization, affiliated with the National Audubon Society. It is concerned with the preservation of natural areas, sanctuaries, and conducts educational programs for school children, nature weekends for adults, etc. Like other non-profit, tax-exempt organizations in New Jersey, it must pay property taxes; making necessary the provision of some funds for maintenance for large tracts.

Protestant Council of the City of New York
475 Riverside Drive
New York, New York 10027
212 RI 9-1214

Dr. Dan Potter
Executive Director

The Council is interested in land for church related purposes which could involve considerable open space, in contrast to the Federation of Protestant Welfare Agencies which is concerned with the social programs of the Protestant Church groups.

Staten Island Institute of Arts and Sciences
75 Stuyvesant Place
Staten Island, New York 10301
212 SA 7-1135

George O. Pratt, Jr.
Director

The Institute uses land for conservation and education. An owner of land of any size suitable for these purposes should explore the possibilities of deeding it to the institute, or granting it an easement. Location, size and natural characteristics are the factors.

United Neighborhood Houses of New York
114 East 32nd Street
New York, New York 10016
212-LE 2-7360

Miss Helen M. Harris
Executive Director

With 36 associated organizations, operating 54 centers in New York, this agency will be able to put to good use any land suitable for camping or recreation. Stress now is on day camping for entire families. Call or write to the main office directly.

Young Men's Christian Association
(for New York counties)
New York State Executive Committee
2 West 45th Street
New York, New York 10036
212 MU 2-4664

Ernest Ford
Executive Secretary
(for New Jersey counties)
Central Atlantic Area Council
45 Bleeker Street
Newark, New Jersey

201 MA 3-3403

Edmund R. Tomb
Executive Secretary
(for Connecticut)
New England Area Council
14 Somerset Street
Boston, Massachusetts
617-523-4570

Orville H. Emmons
Executive Secretary

Y's are interested in lands suitable for camping, preferably without large buildings that are expensive to maintain. Y's are constantly searching for lands to enable them to enlarge their camp program. Each area office is in touch with the Y's under its jurisdiction, and will be able to put a landowner in touch with a Y looking for camp area and other property.

Wildlife Management Institute
709 Wire Building
Washington, D. C. 20005
202 DI 7-1774

Dr. Ira N. Gabrielson
President

The Institute on occasion takes title to conservation areas of exceptional value. Through its field service, the Institute is able to advise landowners on the values of the land and help them to find suitable recipients. Inquiries to the national headquarters will be referred to the Northeast Field representative.

Wildlife Preserves, Inc.
24 County Road
Tenafly, New Jersey
201 LO 7-3142

Robert L. Perkins, Jr.
President

Interested in wildlife and botanic areas to be kept in a natural condition, particularly in the State of New Jersey. Capable of being a third party in a reverter clause. Able to act rapidly on an offer of land, and to transfer property to other suitable agencies, both private and governmental.

B. STATUTES AND RULINGS

CHARITABLE DEDUCTIONS—FEDERAL INCOME TAX

The capability of deducting the value of property donated to qualified exempt organizations or public bodies is well known and needs no appended authority. The landowner should be aware, of course, of certain aspects of the 1964 revision of the Internal Revenue Code which are pertinent to land philanthropy. This revision, mentioned in several places in the main body of the text, provides an expanded interpretation of what constitutes the exempt organizations to which contributions have a 30 per cent limit of adjusted gross income as opposed to the earlier limit of 20%. (All the organizations listed in Appendix A are in the 30% category. Under the 1964 revision just about the only type of qualified exempt body remaining at 20%

is the so-called "private foundation.") Further, the 1964 revision allows that the value of gifts exceeding the 30% limit can be carried forward for five years up to the 30% limit of deductibility in each year. Previously, this excess could have been lost as a charitable deduction unless compensating measures for partial conveyance were taken. Beyond the mention of these changes, the particular application of various features of the revenue code should properly come from the landowner's attorney or financial adviser.

There is, however, a recent Internal Revenue Service Ruling not widely known that helps clarify the deductibility of partial rights in land. This ruling was developed (in connection with the cele-

brated "Merrywood" case) in order to protect the view across the Potomac from Mount Vernon:

SECTION 170.—CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS

26 CFR 1.170-1: Charitable, Rev. Rul. 64-205
etc., contributions and gifts;
allowance of deduction.

A gratuitous conveyance to the United States of America of a restrictive easement in real property to enable the Federal Government to preserve the scenic view afforded certain public properties, is a charitable contribution within the meaning of section 170 of the Internal Revenue Code of 1954. The grantor is entitled to a deduction for the fair market value of the restrictive easement in the manner and to the extent provided in Section 170 of the Code; however, the basis of the property must be adjusted by eliminating that part of the total basis which is properly allocable to the restrictive easement granted.

Advice has been requested as to the deductibility, for Federal income tax purposes, of a gratuitous conveyance of a restrictive easement in perpetuity to the United States of America.

The taxpayer owns a parcel of land in state X. The parcel is part of a larger area which presents a generally wooded appearance and scenic view to a nearby Federal highway. The United States is interested in preserving the appearance of the area so as to maintain the scenic view afforded the highway. The surrounding landowners, including the taxpayer, gratuitously conveyed to the United States perpetual restrictive easements in their properties. By the terms of the deed conveying the easement to the United States the taxpayer agreed to certain restrictions on the use of his property. Generally, the restrictions pertain to the type and height of buildings and type of activities for which they may be used, removal of trees, erection of utility lines, dumping of trash, use of signs, erection of sales booths and the size of parcels which are sold.

Section 170 of the Internal Revenue Code of 1954 provides, in part, that there shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year.

Section 170(c) (1) of the Code defines a charitable contribution as meaning a contribution or gift to or for the use of a State, a Territory, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

Section 1.170-1(c) of the Income Tax Regulations provides, in part, that if a contribution is made in property other than money, the amount of the deduction is determined by the fair market value of the property at the time of the contribution. The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.

Under the law of state X, a restrictive easement constitutes a valuable property right or interest in favor of the party for whose benefit the easement is created and is enforceable by that party.

Based upon the above facts, it is held that the gratuitous conveyance to the United States of America of a

restrictive easement in real property is a charitable contribution within the meaning of section 170(c) of the Code. Accordingly, the taxpayer is entitled to a deduction under section 170 of the Code in the manner and to the extent therein provided, for the fair market value of the restrictive easement. The basis of the taxpayer's property, however, must be adjusted by eliminating that part of the total basis which is properly allocable to the restrictive easement granted.

From Internal Revenue Bulletin
No: 1964-30, July 27, 1964

CLUSTER DEVELOPMENT

The landowner interested in preserving a portion of his property through the use of clustering may be assured that there is ample precedent throughout the region for the application of the idea.

By its nature, clustering is consistent with the basic requirements of municipal zoning laws and regulations—density requirements applicable to a given tract of land remain the same whether clustering is used or not; requirements for streets, drainage, curbing and the like are unchanged. Its effect is in terms of housing type and the open space preserved.

Since cluster planning is a modification that in no way abrogates the basic concept of zoning (in fact enhances it), a local cluster zoning ordinance has not depended on state enabling legislation for validity. Cluster plans have been approved via local ordinance in Connecticut and New Jersey and prior to 1963 in New York. In that year, the State of New York passed a cluster enabling act in order to give statutory recognition to the public purposes served and to outline the general requirements for the administration of a local ordinance. In states lacking enabling legislation, the New York statute might well provide guidelines for drafting a local ordinance if the landowner's municipality does not have one already. Paragraph (a) shows that clustering is permissive: the owner is not required to submit a cluster plan, nor is the municipality required to accept one; paragraph (b) is the key feature, providing for density conformance—and should be included in all ordinances; and paragraph (d) provides important flexibility in the maintenance of open space by not limiting its ownership to the municipality itself, but at the same time providing for its protection.

N. Y. CLUSTER ENABLING ACT

Section 281 of the town law. Approval of plats; conditions for changes in zoning provisions. The town board is hereby empowered by resolution to authorize the planning board, simultaneously with the approval of a plat or plats pursuant to this article, to modify applicable provisions of the zoning ordinance, subject to the conditions hereinafter set forth and such other reasonable conditions as the town board may in its discretion add thereto. Such authorization shall specify the lands outside the limits of any incorporated village to which this procedure may be applicable. The purposes of such authorization shall be to enable and encourage

flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands. The conditions hereinafter referred to are as follows:

(a) If the owner makes written application for the use of this procedure, it may be followed at the discretion of the planning board if, in said board's judgment, its application would benefit the town.

(b) This procedure shall be applicable only to lands zoned for residential purposes, and its application shall result in a permitted number of dwelling units which shall in no case exceed the number which could be permitted, in the planning board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning ordinance applicable to the district or districts in which such land is situated and conforming to all other applicable requirements.

(c) The dwelling units permitted may be, at the discretion of the planning board and subject to the conditions set forth by the town board, in detached, semi-detached, attached, or multi-story structures.

(d) In the event that the application of this procedure results in a plat showing lands available for park, recreation, open space, or other municipal purposes directly related to the plat, then the planning board as a condition of plat approval may establish such conditions on the ownership, use, and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. The town board may require that such conditions shall be approved by the town board before the plat may be approved for filing.

(e) The proposed site plan, including areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces, and streets, driveways and all other physical features as shown on said plan or otherwise described, accompanied by a statement setting forth the nature of such modifications, changes, or supplementations of existing zoning provisions as are not shown on said site plan, shall be subject to review and public hearing by the planning board in the same manner as set forth in sections two hundred seventy-six and two hundred seventy-seven of this article for the approval of plats.

(f) On the filing of the plat in the office of the county clerk or register, a copy shall be filed with the town clerk, who shall make appropriate notations and references thereto in the town zoning ordinance or map.

(Chapter 963, Laws of 1963)

EASEMENTS

Although the granting of easements is an established form of conveyance needing no statutory authority, the use of rights in land, as opposed to fee title, to serve a public purpose is formalized in the laws of all three states of the New York Region. Below are excerpts from relevant statutes.

NEW JERSEY

12. Without limitation of the definition of "lands" herein, the commissioner may acquire, or approve grants to assist a local unit to acquire:

(a) lands subject to the right of another to occupy the same for a period measured in years or otherwise; or

(b) an interest or right consisting, in whole or in part, of a restriction on the use of land by others including owners of other interests therein; such interest or right sometimes known as a "conservation easement." (N.J. Green Acres Land Acquisition Act of 1961, Section 12).

CONNECTICUT

Sec. 7-131c. Acquisition of open space land. Any municipality may, by vote of its legislative body, by purchase, condemnation, gift, devise, lease or otherwise, acquire any land in any area designated as an area of open space land on any plan of development of a municipality adopted by its planning commission or any easements, interest, or rights therein and enter into covenants and agreements with owners of such open space land or interests therein to maintain, improve, protect, limit the future use of or otherwise conserve such open space land. (1963; P.A.490, S.6.)

NEW YORK

The acquisition of interests or rights in real property for the preservation of open spaces and areas shall constitute a public purpose for which public funds may be expended or advanced, and any county, city, town, or village after due notice and a public hearing may acquire, by purchase, gift, grant, bequest, devise, lease or otherwise, the fee of any lesser interest, development right, easement, covenant, or other contractual right necessary to achieve the purposes of this chapter, to land within such municipality.

After acquisition of any such interest pursuant to this act the valuation placed on such an open space or area for purposes of real estate taxation shall take into account and be limited by the limitation on future use of the land. (General Municipal Law, Book 23, Section 247, 1960).

C. BIBLIOGRAPHY

This selected list of publications has been culled from the massive amounts of prose—both technical and "inspirational"—published in behalf of open space. The basic texts are included here. It may not be complete, but none of it is fluff; all of it is germane to one aspect or another of the open space problem, and can be of substantive help to the landowner.

CLUSTER DEVELOPMENT. A readable report on the function, forms and economics of cluster planning. Helpful insights to the problem of getting a cluster plan approved are included, and the ap-

pendix contains model ordinances and homeowners' association deed forms. 132 pages. By William H. Whyte. American Conservation Association, 30 Rockefeller Plaza, New York, N. Y. 1964. \$3.00

THE HOMES ASSOCIATION HANDBOOK. A detailed study providing step by step guidance in setting up homeowners' associations—probably the best means for protecting and maintaining the open land in a cluster development. This manual provides detailed guidance to the landowner or developer in the entire process: from subdivision planning to recording the plat, and all the way through to the last legal wrinkle in deed forms and association by-laws. 406 pages. Technical Bulletin No. 50, Urban Land Institute, 1200 18th Street, N.W., Washington 6, D.C. 1964. \$10.00

LAND ACQUISITION FOR OUTDOOR RECREATION—ANALYSIS OF SELECTED LEGAL PROBLEMS. Chapter III contains a fully annotated discussion of the law as it applies to easements and other partial rights in land. Provides some clear-cut definitions and summaries of case law. Should be of interest to both the landowner and his attorney. 67 pages. By Norman Williams, Jr. Outdoor Recreation Resources Review Commission Study Report Number 16. Superintendent of Documents, U. S. Government Printing Office, Washington 25, D.C. 1962. \$.45

THE LAW OF OPEN SPACE. A general review of the legal aspects of open space preservation. Of particular interest to landowners are sections on encroachment, easements, tax concessions on open space, and tax inducements to make gifts. 72 pages. By Shirley Adelson Siegel. Regional Plan Association, 230 W. 41st Street, New York, N. Y. 10036. 1960. \$3.50

OPEN SPACE ACTION. An optimistic report on what has actually been going on in behalf of open space preservation. Discusses new legislation, property taxation, cluster planning and easements from a national standpoint. The author provides a summary of lessons learned, a list of recommendations and a comprehensive appendix which is "primary source material that will be of practical value to legislators, planners, lawyers and citizens who are pressing for action." 107 pages. By William H. Whyte. Outdoor Recreation Resources Review Commission Study Report Number 15. Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C. 1962. \$.65

OPEN SPACE FOR URBAN AMERICA. A comprehensive analysis of the role of open space in urban development, with a fully documented treatment of the potential for action by various levels of government as well as private groups. This is a basic reference work emphasizing legal and statutory aspects. Mainly intended for professionals, it provides a clear exposition nevertheless. By Ann Louise Strong. Housing and Home Finance Agency, Urban Renewal Administration. Superintendent

of Documents, U. S. Government Printing Office, Washington 25, D. C. Available Fall, 1965.

PLAN FOR THE VALLEYS. This remarkable land-use recommendation for a Baltimore suburb shows how a combination of private initiative and governmental processes can produce an "environment inhabited by man in which natural beauty is retained." The plan proposes a landowner syndicate, new municipal ordinances and other measures in order to preserve the basic amenity and the natural processes that contribute to what the authors call "the genius of the landscape." 64 pages. By Wallace-McHarg Associates, Philadelphia. Green Spring and Worthington Valley Planning Council, Inc., 212 Washington Avenue, Towson, Md. 1963. Out of print, but a new expanded edition may be available shortly.

THE RACE FOR OPEN SPACE. A thorough review of the need for open space preservation in the New York Metropolitan Region, the dynamics behind its disappearance, and suggestions for action on the part of governmental units, private organizations and individuals. 95 pages. Regional Plan Association, 230 W. 41st Street, New York, N.Y. 10036. 1960. Out of print.

REVERTER CLAUSES AND RELATED LEGAL PROBLEMS. This legal research report provides a useful technical summary of the problems and potentials of reverter clauses and alternate devices for the protection of open space conveyed by gift. Includes a state-by-state summary of statutes and case law that pertains to reverters. 68 pages, mimeographed. By Leda Rothman. The Nature Conservancy, Inc., 2039 K Street, N. W., Washington, D. C. 20006. 1964. \$3.00

SECURING OPEN SPACE FOR URBAN AMERICA: CONSERVATION EASEMENTS. A basic exposition of open space possibilities involving less-than-fee conveyance. Provides a literate discussion of the legal bases for easements and how they can be used to complement other measures in a systematic program of open space preservation. 67 pages. By William H. Whyte. Technical Bulletin No. 36. Urban Land Institute, 1200 18th Street, N.W., Washington 6, D. C. 1959. \$3.00

SPREAD CITY. This publication is required reading for those who would like to understand how population increases will affect the New York Metropolitan Region. The report "sketches the way the Region will look in 1985 if present economic trends, popular taste and public and corporate policies continue." The challenge of the future is authoritatively laid out with a good deal of supporting statistical data. 48 pages. Regional Plan Association, 230 W. 41st Street, New York, N. Y. 10036. 1962. \$10.00

Text by CHARLES E. LITTLE and ROBERT L. BURNAP

Photography by DORAN S. MOLL, except as follows

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|---|---|
| vi—H. Armstrong Roberts | 47—C. M. Abbott, E. A. Devaney, Top |
| 2,3—Skyviews, New York | 50—Allan D. Cruickshank, National Audubon Society |
| 8—Statistical Material, Regional Plan Association, H. Armstrong Roberts | 52—Mid-Fairfield County Youth Museum |
| 10,11—Skyviews, New York | 55—Charles E. Mohr, National Audubon Society |
| 28—Nassau County Museum of Natural History | 60—H. Armstrong Roberts |
| 45—Mrs. Anthony Anable | 61—Peter Gilchrist |
| 46—D. T. Coggeshall, U.S. Fish and Wildlife Service, Top | 64—H. Armstrong Roberts |
| David W. Corson, E. A. Devaney, Middle | 67—Gottscho-Schleisner, Inc. |
| Bayard Cutting Arboretum. Bottom | |

Designed by LEROY H. APPLETON

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Programs of the Open Space Institute

1. *Municipal Program*

This program is directed primarily at suburban town governments with official conservation agencies to establish action processes for open space preservation. Programs are geared to the needs of each municipality and range from assisting in the development of a local Stewardship Program to the preparation of an Open Space Action Recommendation. This document, complete with maps, includes detailed recommendations for priority acquisition areas, referendum promotion, landowner solicitation and municipal open space legislation. Programs may also include preparation of a variety of brochures and other public education materials. Fees range from \$500 to \$5,000 and (due to the Institute's foundation support) represent only about one half actual program costs.

2. *Landowner Program*

Counselling services are provided to selected private landowners who are interested in voluntary preservation through land gifts, cluster development design, easements, etc. Specific, formal recommendations are prepared and landowners are encouraged to make contributions to the Institute to help defray the cost of the program. Since the inception of the Stewardship Program in 1966, approximately 4,500 acres have been permanently set aside as protected open space. These projects include tracts of all sizes in the metropolitan countryside. Current "projects in progress" total another 5,500 acres.

3. *Membership Program*

If the Open Space Institute is to survive over the long pull — an objective shared by our staff, our trustees and our clients — as well as our foundations — we must develop a more stable and permanent financial base. This means that instead of putting major reliance on foundations for our funding, we must begin to depend more and more on the combination of service-related fees and on

voluntary contributions from those who know of our work, consider it important, and are in a position to help us carry it forward. Moreover, we have a deadline. By the end of 1971 we must be receiving at least 40% of our income from voluntary contributions or there will be no way for us to continue our activities beyond that point. We can reach this goal, if we can count on you and others like you to participate in our work. We have developed, therefore, a membership program which provides a range of contribution options from \$10 per year for individual membership to \$50 for corporate or sustaining members.

Based on the likelihood that those who help us fund our field programs are those who have the most use for our informational materials, we will provide a 20% discount on our present and future publications to all members.

Also, we would like to provide new members with a copy of Peter L. Johnson's technical report "Wetland Preservation". In it, Johnson, former Area Director for the Institute covers several wetland preservation techniques and has developed a model ordinance for local communities to follow. Moreover, the report includes 30 laws, ordinances and orders concerning wetland preservation.

It is important, however, to convey that membership in the Open Space Institute is mainly a way to help us continue our vital and unique field programs. It is not merely a distribution method for publications except as this is an integral part of our work and in keeping with our "action" objectives.

So, the contribution you make for membership is just that — a contribution — and it is tax deductible. We hope you will help us to save precious open space in our rapidly urbanizing metropolitan areas, and we hope that what we learn and publish in our reports and books will help you to do the same. May we welcome you as a member of the Institute, soon.

Open Space Institute

145 EAST 52ND ST., NEW YORK, N.Y. 10022 / 212-421-0732

YES, I (we) want to help the Open Space Institute achieve outstanding success with its action programs so it will be able to continue its operations in the years ahead. Checked below is the type of membership desired for which I (we) enclose a check for \$ _____

- | | |
|--|----------------------------|
| <input type="checkbox"/> Individual Membership | - \$10 Annual Contribution |
| <input type="checkbox"/> Group Membership | - \$25 " " |
| <input type="checkbox"/> Corporate Membership | - \$50 " " |
| <input type="checkbox"/> Sustaining Membership | - \$50 " " |

Name _____

Organization (if any) _____

Address _____

City _____ State _____ Zip _____

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